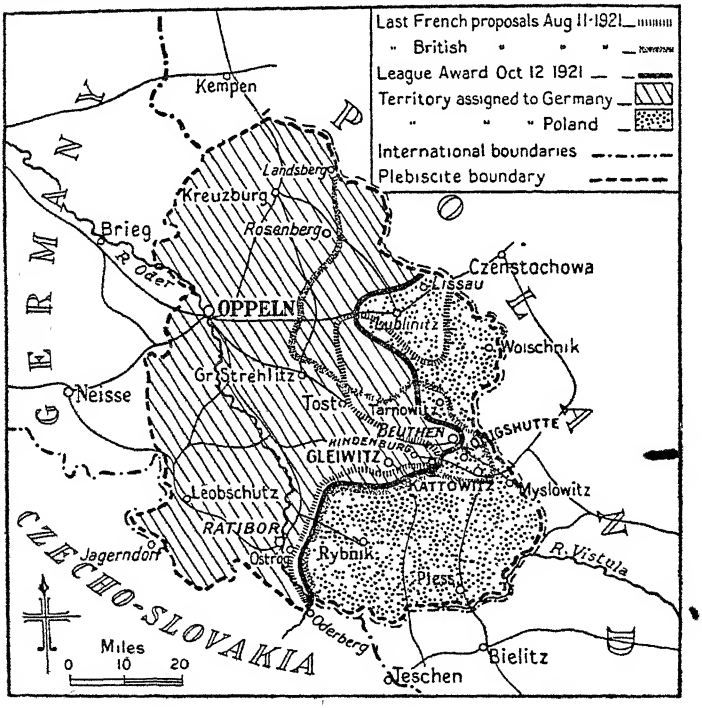
MAP ILLUSTRATING UPPER SILESIAN AWARD.



THE SECOND YEAR OF THE LEAGUE

A Study of the Second Assembly of the League of Nations

BY

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:: PATERNOSTER ROW ::

"*The scene entirely changed and I saw a large and magnificent Hall, resembling the Great Divan or Council of the Nation*[*s*]. *At the Upper end of it, under a Canopy, I beheld the Sacred Covenant, shining as the Sun. . . . They prostrated themselves before it and they sung an Hymn . . . 'May the Light of the Covenant be a Lanthorn to the Feet of the Judges, for by this shall they separate Truth from Falsehood! O Innocence rejoyce for by this Light shalt thou walk in Safety; nor shall the Oppressor take hold on Thee! O Justice be exceeding glad for by this Light all thy Judgments shall be decreed with Wisdom! Nor shall any man say thou hast erred! Let the Hearts of all the People*[*s*] *be glad!' . . . Then all the Rulers took a solemn oath to preserve it inviolate and unchanged, and to sacrifice their Lives and Fortunes, rather than suffer themselves and their children to be deprived of so invaluable a Blessing.*"—BOLINGBROKE, *The Craftsman.* No. 16.

PREFACE

THE League is an international organism, which is incessantly developing and changing its colour and shape. It is no longer the same conception as that which saw the light at Paris in 1919; it is no longer the same body as that which sat at Geneva in 1920. In 1922 it will exhibit some characteristics different from those which it possessed in 1921.

The difficulty of obtaining information about the League and its works is that accounts of it are usually too general or too particular. Its records are enormous, and they comprise speeches, discussions and reports by some of the acutest lawyers, the most eloquent orators and profoundest statesmen in Europe. This book is written to call attention to this goldmine of political, economic and legal information and, if possible, to reveal some of its brightest treasures to the public.

A personal view of the activities of the Second Assembly of the League is necessarily a limited one, but it at least gives an intelligible principle of selection. There is little here about the organisation of intellectual work, of international statistics, of motions of sympathy with Armenia or East Galicia, of disarmament and of blockade, even of

Russian relief and humanitarian work. It did not seem to me that it was by these activities, though important, that the Second Assembly would be remembered. There is much, however, about the admission of new states, about mandates and minorities, about governing territories, Courts of Justice and constitution-making, about settling disputes in Albania and Upper Silesia. For it is by these things that the League lives and will be judged.

HAROLD TEMPERLEY.

January, 1922.

A SHORT BIBLIOGRAPHICAL NOTE

A STUDY of the League must begin with that of the German Treaty.

For a very short course the following may be recommended: *The German Treaty*, edited, with brief commentary, by Harold Temperley (Hodder & Stoughton, 5s.). *Handbook to the League of Nations*, Sir Geoffrey Butler (Longmans, 5s.). Two small but excellent books are *What They Did at Geneva* (1920) and *Geneva* (1921), by H. Wilson Harris, published by the *Daily News*, 6d. each.

For a fuller course:

History of the Peace Conference of Paris, ed. H. W. V. Temperley, in 6 vols. (5 vols. published) (Hodder & Stoughton).

The Truth about the Treaty. A. Tardieu (Hodder & Stoughton).

The Peace Negotiations: A Personal Narrative. R. Lansing (Constable & Co.).

The League of Nations. L. Oppenheim (Longmans, 6s.).

The League of Nations Starts: An Outline by its Organisers (Macmillan, 10s. 6d.).

The First Assembly of the League, ed. O. S. Brett (Macmillan & Co., 3s. 6d.).

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A Study of the Second Assembly

I

THE ASSEMBLY—ORATORY

"The millions of the world are turning to us, and we must not disappoint them."—M. KARNEBFEK, on taking office, Sept. 5, 1921.

THE Second Assembly of the League met under conditions calculated to frighten enthusiasts and to encourage cynics. There was none of the first glow of ardour which had distinguished the First Assembly. Everyone felt that the League was on its trial. Hence an atmosphere of nervousness, of tentative discussion, of hesitation, was at first felt everywhere. It was soon dissipated in the manly, bracing atmosphere of the Assembly. The first event was the election of a President. The Assembly met on September 5 under the acting presidency of Dr. Wellington Koo, the Chairman of the Council, and the fact that a Chinaman could preside over an assembly consisting of over forty nations was an impressive

testimony to the way in which the League has been superior to colour and race in the Assembly, and his address on this, one of the rare occasions on which he spoke, was admirably phrased. In three or four sentences he defined the work before the Assembly. "To-day we are past the stage of experiment, to-day we are on the threshold of achievement. Every day that passes demonstrates—and the whole of my experience as a member of the Council only serves to convince me—that the League as established under the Covenant is not in any sense of the word a superstate. It is a union of nations for the avoidance of the appalling catastrophes of war. It is a practical means of facilitating the conduct of international business and promoting the general welfare of mankind. It does not seek to bind the members of the League against their will; it does not seek to force progress for which its members are not willing."

The proceedings began with an unfortunate incident. It was well known that many delegations favoured the election of Dr. Gustav Ador, the indefatigable chairman *par excellence* of humanitarian associations, the Chairman of the Brussels Conference, and an ex-President of the Swiss Republic. Unfortunately the Swiss Government favoured Dr. Ador less than the Assembly, and intimated at the last moment that they did not desire the election of one of their own citizens. The Assembly could hardly disregard this hint, but

ultimately they elected Ador Honorary President of the Assembly, paying a special compliment to a man whose elevation had been opposed by some, at least, of his own countrymen. It was a painful incident, but it shewed incidentally that the League could bring considerable moral pressure to bear even though "it did not seek to force progress" on Switzerland in the matter of permitting one of its citizens to accept the highest honour the Assembly could give.

Mr. Balfour rose and proposed M. Karnebeek, the Foreign Minister of Holland, as President, M. Jonnesco proposed M. Da Cunha, of Brazil. Ultimately voting by secret ballot took place, resulting, after a second ballot, in M. Karnebeek being elected by 21 votes. The result was a victory for the British Empire—supported, apparently, by a miscellaneous following as against Latin America —possibly [1] supported by Latin Europe. On the whole it was a good move, for Holland is one of the states most interested in international co-operation and international jurisprudence, and has greatly appreciated the compliment to her distinguished son. M. Karnebeek showed great surprise at being elected and some nervousness in the initial stages of his chairmanship. But ultimately, as he gained and imparted confidence, he showed great dexterity in managing business and imparted a high tone to the character of the debates. Every-

[1] *Le Temps* of Sept. 6 indicated French support of Da Cunha.

one felt at the end that the honour had been worthily bestowed and that he had redeemed the pledge uttered on taking office, "I will endeavour to be your best and most devoted servant."

Of orators the Assembly had no lack, and of both sexes. France had with her the greatest orator in Europe, but unfortunately M. Viviani fell ill. MM. Bourgeois, Hanotaux and Reynald were always weighty and impressive, and M. Nobelmaire ultimately developed remarkable talents. Of the Scandinavian representatives, Dr. Nansen, who fought a hard battle for Russian relief, was always attractive from his transparent sincerity, as was the massive integrity of Branting, the Swedish Socialist, who made a fine picture with his brooding eyes, silver hair and yellow moustache and slow, impressive speech. Of the Latin American group three stood out pre-eminent, though for different reasons: Restrepo from Colombia, a vast, grey-haired man, skilful at taking a point in procedure and with a large fund of humour; Don Edwards of Chile, fluent and graceful; and the Bolivian, Aramayo, who spoke English like a native and remained dignified and calm under painful circumstances. Gimeno—the chief Spanish delegate—spoke once, and in Spanish, "the language of ninety millions"—with great power and with curious stabbing gestures.

Among the other states of Europe, M. Hymans, with his grey hair and black eyebrows and fine graceful gestures, never failed to attract in his

speeches. Frangulis, the Greek, was a finished orator, but with too much art to please an assembly that cared little for eloquence alone. The Serb, Spalaikovič, and his opponent—the black-bearded Albanian, Bishop Noli—indulged in a series of oratorical duels which never failed to excite attention. Count Mensdorff of Austria spoke only once, but with great dignity, while Osusky, the Czecho-Slovak, greatly amused the Assembly by addressing them in English with a pronounced American accent. Scialoja of Italy and Motta of Switzerland spoke admirably, though both reserved their greatest oratorical efforts for a non-political commemoration of Dante. A curious and pathetic contrast between old and new in the Orient was afforded by the two Persian delegates. The second delegate, a young man, spoke admirably, often, and closely to the point in approved modern fashion. The first delegate, a prince and a poet, spoke once only, and told how he had met W. T. Stead many years ago at the Peace Conference of the Hague, dreamed with him of an Assembly of the Nations, and composed "by himself" an ode, of which he recited part, which demonstrated that all people had one origin and that the earth nourished every one of us. Finally he expressed the wish that the olive-branch planted at the Hague should become, "by the assiduous care of this lofty Assembly, the tree of fraternity, extending its branches, magnificent with eternal peace, over all humanity." Loud applause came

from the delegates—always generous towards sincerity, even when it was poetic.

It is worth noting that one of the greatest oratorical triumphs was scored by Mademoiselle Helène Vacaresco, the famous Rumanian poetess—a woman who only began speaking in public a few years ago. Like her, Dr. Wellington Koo, M. Osusky, Dr. Nansen, Don Edwards and Šastri, though speaking in languages not their own, contrived to win great technical successes. One more point to note is that two famous statesmen, Dr. Benesh the Czecho-Slovak and Stambulivski—the Bulgarian peasant Prime Minister—and two great orators, Take Jonescu—the "Golden Mouth" of Rumania—and Viviani of France, never uttered a word at the Assembly. It is clear that all of them sought by their presence to contribute rather to the solid work of the League, and refused to regard it as a scene for mere oratorical display. Their silence was golden, for it marked their respect for the League.

The British Empire Delegation took a very active part in most debates. Captain Bruce, the Australian, spoke seldom, but always with weight and force; Mr. Doherty, the Canadian Chief Justice, astonished everybody by speaking French more fluently than he spoke English, while Sir James Allen of New Zealand brought a ripple of laughter by relating his personal difficulties in explaining mandates to the ingenuous natives of Samoa.

Among the delegates of Great (as distinguished

from Greater) Britain, Sir Rennell Rodd scored two signal successes, first in criticising and eventually forcing the withdrawal of an absurd report in which Swiss hotel proprietors endeavoured to explain that the cost of living in Geneva was moderate, and second in persuading the Assembly to adopt a revised scale of contributions from each state. In each case clarity of exposition and tact of handling were displayed to a marked degree. Mr. Fisher spoke always with a dignified sincerity and greatly impressed the Assembly, but his happiest efforts were on Committees, very notably in one speech on Albania and in another on the admission of Lithuania to the League. Mr. Balfour, by common consent, was the weightiest voice in the whole Assembly, and carried more influence even than Lord Robert Cecil. The latter was indefatigable in debate, in proposing motions and amendments, and in raising to a higher level every debate in which he took part. Probably on Committees his influence was still greater and, indeed, all-pervading. Yet his influence was, and remained, personal. Mr. Balfour seemed to carry weight beyond any other voice raised in the Assembly, because his personal opinion expressed the policy, not only of a long-experienced statesman, but of a great empire. Few will forget some of his sage and pithy utterances. There was his admonition to M. Branting, who had criticised the Council over its decision in the Aaland Islands dispute as "being the organ of a particular group of Powers."

"Mr. President," answered Mr. Balfour, "that such a charge should be made by any member of the League, is, I think, most unfortunate; but that it should be made by a man of the high character and the great ability and the world-wide reputation of my friend M. Branting I confess gave me great pain, and made me feel that sometimes, in the heat of debate and argument, we say things which afterwards we may have some reason to regret." As a Swiss journalist wrote, "Et voilà pour le delegué de la suède!" [1] Again, when a Greek deputy wished to add a Serb, a Greek and an Albanian to a Commission of Observation in Albania, he reminded him that "there is no greater strain on human friendship than long periods of travel together." Not less telling was his question to the Poles about Zeligowski, the Polish D'Annunzio in Vilna: "Is he a rebel deserving military sentence? Is he a patriot deserving the patriot's crown? We know not. Whenever the exigencies of debate required one answer, that answer is given, when they require the other answer, the other answer is given." Again, what could be more complete than his reply to Lord Robert Cecil about disarmament? "General disarmament can only be effectual if it is a general disarmament, and a general disarmament is an all-inclusive

[1] It is characteristic of the fine temper of M. Branting that he is well known to have been subsequently greatly distressed by a Swedish paper's attack on Mr. Balfour in connection with this utterance. He also asserted that his criticisms only showed his belief in the League and his desire for its perfection.

disarmament." There was a neat finality about this which even idealists appreciated.

In sheer oratorical distinction the palm was borne away by the second delegate from India. Everything about Mr. Šastri was remarkable. On all occasions he stoutly upheld the use of the British language as against French, yet he was a Brahmin of the Brahmins. He claimed a descent of five thousand years, but he conjured the Council "not to wrap itself up in oligarchic mystery." Though possessed of great natural eloquence, he often sat silent in Committees, only speaking to urge practical conclusions or to demand the taking of a vote. On September 12 he stood up in the Assembly, a figure in a plain black collarless cassock and white turban, and spoke. There were no gestures—though the expression of his face changed continually, and the sustained melody of his voice held everyone entranced. "Brother and Sister Delegates," (his very opening word was original), "hard and cold indeed must be the heart that fails to be touched, and touched to noble issues, by such a spectacle as this." He spoke of the critics and pessimists with scorn, but he reminded the League that it was wiser to limit its scope and not to attempt the impossible. Then he brought a thrill of shame to everyone by reminding the nations how India, "almost alone amongst the Great Powers," had not only ratified the International Labour Conventions of Washington, but had passed laws to give effect to them.

Yet there was but one Indian on the League Secretariat, while there were 138 British, 73 French, and 13 Americans. As regards Mandates, he reminded us that in German West Africa "the Germans did not make a colour-bar or introduce invidious distinctions." If the Mandates did introduce them, then one day a delegate from India might have to "come on this platform and tell the Assembly that we are worse off under the trustees of the League than we were under the Germans. Either rectify these matters or put us back where we were. It would be a matter of profoundest regret for any of us to come and speak in that fashion in the Assembly." And after a solemn pause he slowly quitted the tribunal. There were few present whom his oration did not cause to rate India higher because she could produce such a man.

In reflections for the future debates in the Assembly one serious consideration arises. Owing to a motion carried by Lord Robert Cecil, the sessions of the various Commissions were thrown open to the public. The decision was hailed with delight, but the results were unexpected. After the general debate on the Council's report, the Assembly settled down to discuss particular problems in detail, according to reports presented to them by the various Commissions. But the publicity of the proceedings induced the orators to make their fine speeches on the Commissions themselves. Consequently, when the subjects came up

before the Assembly, the speakers subjected the public to a repetition of remarks they had already heard. Not unnaturally a decline of interest in the Assembly debates became noticeable at once, for the speakers lacked both novelty and force. The effect was equally bad upon the Commissions. So long as they met in private, arguments were directed to the reason and not to the emotions, but the presence of the public irresistibly tempted the emotional orator towards rhetoric. Hence the Commissions became less businesslike and the Assembly more dull as a result of publicity. In the end some remedy will doubtless be found, but, until it is, the public interest in the Assembly will be confined to the General Debate on the Council's Report.

II

THE COUNCIL'S REPORT—EXECUTION

THE Council's report of the measures taken to execute the decisions of the first Assembly formed matter for a general preliminary debate. The report, as Mr. Balfour complained, was not suitable for enlivening the breakfast-table, yet the table of contents was extremely impressive. There were several sides to the work: administrative, political, humanitaran, technical, and general, and of these the first was not the least important.

(*a*) The Saar Valley

The administration of this area is placed under an International Commission of five members responsible to the League. The Commission considered that Germany was no longer able to exercise her sovereign rights over the Saar and that the Commission itself exercised the rights of sovereignty. This is not altogether a happy arrangement when a Frenchman is Chairman of the Commission, when the mines are for 15 years the property of France, when French currency circulates in the area, when French troops are present in the district,

when French military tribunals have recently been erected there, and some hundred notorious pro-Germans have been expelled. Even a heavy surplus does not compensate the Saar Valley for all this. In response to various complaints the League Council took the view that there was nothing in the treaty to prevent the use of French currency, that the presence of French troops was permissible, though it was not to be permanent. The Council mildly censured the establishment of courts-martial by the Commission, which they proposed to supersede by the setting up of the Supreme Court of the Saar Basin. They further recommended the Commission to examine into all cases of expulsion, to reduce them to a minimum, and to forward reports on the same to the Council. This was slight comfort, but it proved at least that some supervision was being exercised.

(*b*) The Free City of Danzig

If the Saar Valley scheme was pre-eminently the creation of President Wilson, the Danzig solution was certainly that of Lloyd George. The scheme, though carried by Mr. Lloyd George in defiance of the experts, appears to have worked admirably. Its essential point is that Danzig is not governed by an international Board but by an international individual, the High Commissioner, who mediates between the German element predominant within the free city, and

the Government of Poland, charged with the external relations of Danzig and having rights of free commercial access to the port.

The Council of the League had devoted much care to the whole question and had already instituted many improvements. On July 30, 1921, the Rifle factory in Danzig was definitely closed down and all manufacture of arms forbidden. As regards the enforcement of the demobilisation of Danzig, large powers were given to the High Commissioner, as, *e.g.*, to decide what was and what was not war material,[1] and to sequestrate all such material pending investigation into its nature. The very delicate question of the defence of the free city also attracted much attention, and it was finally arranged as follows : Local economic disturbances or military revolt within the free city would be dealt with, in the first instance, by the local government. Only if the High Commissioner notified to the Polish Government that these were insufficient is the latter authorised to send troops. The case of danger from the aggression of an external Power (*e.g.*, Germany) could be met in a similar way, the decision of the High Commissioner being always necessary to initiate any action by the Polish Government.

A number of other technical problems of transport, finance and harbour accommodation were

[1] It is well known that international lawyers cannot define war material, but what is not possible for an international lawyer appears to be possible for a Danzig High Commissioner!

also settled, chiefly by leaving the final decision to the High Commissioner. The finances of the free city were examined and reported on by an expert financial committee of the League. Various improvements were made in the constitution by the League Council with the view of ensuring popular control over the Government and of protecting the Polish minority in the city. Finally it was decided that all outstanding differences between Poland and Danzig, under the Convention of November 9, 1920, which were not settled by July 31, 1921, should be submitted to the High Commissioner's decision. Two railway disputes —occasioned by decisions of the Commissioner— were settled "out of court" on September 23, under the mediation of the Secretariat of the League. One important decision, notably contrasted with that in the Saar Valley, is that the official currency is the German mark, though Polish currency can be used if payer and payee agree (which they are never likely to do).[1]

The net result seems to be that everything depends on the High Commissioner, Lieutenant-General Sir R. C. Haking. According to all accounts he is a bluff, cheery soldier, quite prepared to take decisions on his own responsibility. That he is

[1] The Polish-Danzig Treaty was finally signed in Warsaw on October 24, 1921, the Danzigers employing the historic seal of the city, which dates back to 1340. Equal rights are given to Polish ships within Danzig's territorial waters, Polish tariffs and customs will apply to the trade of Danzig, and Poland will take over the railways.

ready to enforce his authority the following story will illustrate. On his return from leave he found the Assembly in occupation of the house which he deemed most suitable for the High Commissioner. In due course he installed himself there, and the Assembly found quarters elsewhere. This story is in itself a striking example of his power of moral suasion. This benevolent despotism is tempered by the fact that the Commissioner is ultimately responsible to the Council. But, so far as the experiment has gone, it seems highly successful, and the moral seems to be that the authority of the League is much more easily enforced by an international individual at Danzig than by an international Commission in the Saar Valley.

(*c*) The Aaland Islands

On June 27, 1921, this age-long dispute between Sweden and Finland was finally settled by the Council. The basis was that the Aaland Islands were to remain to Finland, but that the Council of the League was to guarantee to their inhabitants "the preservation of their (Swedish) language, of their culture, and of their local Swedish traditions." The Islands were to be disarmed and neutralised. This decision was bitter to the Swedes, and their disappointment found vent in angry remarks against the Council like those of M. Branting, which have been already quoted. It

is, however, to the eternal honour of Sweden that, as in the still more painful case of Norway's separation, her statesmen accepted a decision, in which they were not allowed to take part, without resorting to force. No other country has accepted two such painful decisions with such remarkable self-restraint. Angry as was the utterance of M. Branting, no words can praise too highly the practical wisdom with which he forbade all forcible attempts to reverse the decision. In an age which has seen D'Annunzio at Fiume, Zeligowski in Vilna, Korfanty in Upper Silesia, Friedrich in West Hungary, Sweden's statesmen stand in a high and honourable position. Despite the temporary bitterness engendered, there can be no doubt that the League, and the League alone, could have solved this difficulty, and it is to M. Hymans, the unwearied conciliator of differences, that the chief credit of the result is due. The Aaland Islands Convention was finally signed at Geneva on October 20, 1921.

(*d*) Repatriation of Prisoners of War

This is another great and beneficent work with which another great Scandinavian and an unwearied Swiss are associated as statesmen. This work had been carried forward by Dr. Nansen and Dr. Ador with large contributions from Governments and Red Cross Societies. Dr. Nansen was able to report before the Assembly dissolved that

about 380,000 prisoners had been returned to their families at a total cost of £400,000. "This," said Dr. Nansen (September 21), "is indeed international work . . . a true work of reconciliation," and Dr. Karnebeek, in congratulating him, said, "The quite remarkable results . . . have been the outcome of his (Nansen's) devotion to duty and perseverance . . . and reflects extra honour and glory on the League of Nations." One feels entitled to ask whether so great an amount of human suffering was ever relieved at so small a material cost ?[1]

(*e*) The Campaign Against Typhus

This was conducted with great energy by Dr. Ador, and had much success in Poland, but the funds subscribed (under £100,000) precluded the full benefits that might have been obtained.

(*f*) Other Activities

The activities of the League as regards the Permanent Court of International Justice, Minorities and Mandates are more completely related elsewhere. (Chapters IV.-V.)

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[1] That it was a work by which most nations benefited is seen from the list of the following persons who were on the last transport leaving the Black Sea: 500 women and children of various nationalities, 452 Czecho-Slovaks, 282 Hungarians, 215 Germans, 183 Rumanians, 142 Poles, 123 Austrians, 116 Yugo-Slavs, 30 Italians, 11 Belgians, 3 English, 2 Bulgars, 1 Swiss.

(*g*) Technical Organisation Constituted by the Resolutions of the First Assembly

(i.) *Transit Conference at Barcelona.*—The Transit Conference at Barcelona sat from March 10 to April 20, 1921, and worked out a series of general codes on the subject of Transit, International Freedom of Régime of Railways, Ports, Navigable Waterways of International Concern, etc. These principles were approved by the League Council as in accordance with the Covenant, and a technical Advisory Committee was established to deal with such problems in the future.

(ii.) *Austria.*—The Provisional Economic and Financial Committee met under the chairmanship of Dr. Ador. It has chiefly been occupied with forwarding the Termeulen scheme for international credits. Its chief and most beneficent activity was to consider the application of the scheme to Austria, at the request of the Supreme Council of the Allies (March 17, 1921). The Committee reported in favour of suspending liens on Austria for not less than 20 years. By June 3 they were of opinion that the scheme could be practically applied if the Governments concerned would suspend their liens. Ten Governments have consented to do so, but the work of benefiting Austria is still suspended by the refusal of the United States to co-operate in the scheme, owing to the extraordinary complications of her Constitution. In the second week of December she

announced, however, that she might be able to do so.

(*h*) Conclusions

These are only a few of the activities of the League during the nine months January-September, 1921. Many others were undertaken, ranging from such matters as relief work and health organisation to inquiry into economic conditions and the collection of international statistics. Some of these are necessarily more productive than others, but enough has been said to show the vast range of activities. No summary could be briefer and better than that made by Mr. Balfour on September 10. "Let him consider that we are actually governing two important regions of the earth, and may have yet to govern more. Let him remember that we have established, or are in process of establishing, a Court of International Justice. Let him remember that we have set up machinery for protecting minorities, and that we mean that that machinery shall work. Let him remember that we are dealing with the question of disease all over the world, and let him also remember that we have played no unimportant part in the efforts that all men of good-will are making, wherever they may be, to re-establish upon some solid basis the economic prosperity, without which all the efforts of the League in the direction of peace, contentment and good-will among men must

necessarily fail. Any man who reads this index should then ask himself this one simple question: Were the League of Nations abolished to-morrow, what body either exists or could be found which could do these things? If he asks himself that one question, I will answer for him that he will get up from the perusal of this table of contents a convinced and life-long supporter of our work."

III

THE ADMISSION OF NEW STATES

(*a*) General

Of all the functions of the League the power to admit new states into its company is the most important, and for two reasons. First—because the Assembly can do it by a two-thirds majority, and next because that fact infringes, or may infringe, upon the sovereign rights of one-third of the members of the League. The interesting fact is that the states, whose view may thus be overborne, may in fact be the Great Powers. The desires of England, France and Italy may be overborne by a coalition between, say, Latin America and the smaller states of Europe. The cause is fought out in the Assembly and the Assembly's decision is final. The admission of Albania to the League was an interesting incident in the First Assembly. Her admission was opposed by Mr. Fisher, the British representative in Committee, and the Committee presented a report adverse to her claims. Lord Robert Cecil, however, mobilised the small states in the Assembly against his own country, and Great Britain eventually gave way and

admitted Albania. Fan Noli, the Albanian Bishop, said that this incident proved that the "age of chivalry" was not yet dead.

Here then we can put our finger on an act by which the majority in the Assembly can definitely influence history and perform executive acts, involving important diplomatic consequences, if necessary in the very teeth of the Great Powers. It is curious to note some phases of this subtle conflict between the Supreme Council and the Assembly. The League admitted Albania in December, 1920, but none of the Great Powers had afforded her diplomatic recognition by October, 1921. The League refused to admit Latvia in December, 1920, but the Supreme Council accorded her *de jure* recognition in January, 1921.[1]

(*b*) Unsuccessful Claimants: Caucasian States, Montenegro

The claimants for admission this year involved, of course, some inevitably tragic and comic applicants. The unfortunate Ukraine Democratic Republic was refused admission in 1920 and did not apply again, though its Minister Plenipotentiary addressed a pathetic tentative appeal to the

[1] Recognition of a state is still an individual act of the state which gives the recognition. Admission to the League by a two-third majority of the Assembly is a collective act by all states concerned, even by those who abstain from voting and who oppose it. Both admission and recognition seem to imply that the state admitted or recognised is acknowledged as a member of the general international family.

Secretary-General. The Foreign Minister of Georgia complained even more pathetically that "recent events, resulting in the withdrawal of the Georgian Government from their country, do not permit my Government to renew at present the application for admission." So also the four states of Armenia, Azerbaijan, North Caucasus and Georgia announced their complete economic and political union, though "almost all the territory . . . is in the occupation of the Soviet and Turkish troops." For these Ministers *in partibus*, representing poor shadows of states, there could be nothing except pity.

The kingdom of Montenegro and its representatives excited other emotions. Since France discontinued her diplomatic representation at the end of 1920, and Great Britain had cancelled the exequaturs of Montenegrin Consuls throughout the British Empire (March 17, 1921), and the Montenegrin Consulate at Rome was raided by Italian police, Montenegro was thought to be diplomatically dead. There were four Montenegrin Ministers, headed by Jovan Plamenatz, who did not think so. On King Nicholas' death in March, 1921, they proclaimed his son Danilo King. They were not deterred by the fact that Danilo abdicated in a week, and promptly awarded the crown to Michael, the son of Prince Mirko, a small boy in an English school, appointing Miltitza, the widow of King Nicholas, as Regent. M. Plamenatz, as the chief of the "Big-Four," now instructed his

Foreign Minister, Dr. Chotch, to visit Geneva to protest against the inclusion of Montenegro in the Serb-Croat-Slovene state. Dr. Chotch next applied for the admission of Montenegro to the League. The Secretary-General, in publishing the demand, made the following diplomatic announcement in the Journal of the Assembly (September 24, 1921): "This has been placed in the Library of the Secretariat and is at the disposal of those members of the Assembly who may desire to examine it." Dr. Chotch returned to M. Plamenatz and to Rome only to find that further trials awaited him, for it was announced in the Press on October 14 that the Regent Queen Miltitza had dissolved the "Big-Four," and determined to break up the Ministry. With this *coup d'état* not Montenegro, but at least these representatives of her, disappear from history. Like Frankenstein, they suffer from their own creations. Though not lacking in the sense either of "self" or of "determination," the "Big-Four" had proved unable to forge the requisite link between the two words.

(*c*) Successful Claimants: the Baltic States

The successful claimants for admission were all drawn from that group of maritime states bordering on the Baltic. About the Esths and Letts there was little question. Both Esthonia

and Latvia (Lettonia) under great difficulties have organised their Governments. Both races are interesting as highly gifted and intelligent, and as having waged a most resolute and successful war against both German and Russian domination. They were able to give satisfactory answers to all the five inquisitorial questions. These were:

(1) Is the application in order?
(2) Is the Government recognised *de jure* or *de facto* and by which states?
(3) Does the country possess a stable Government and fixed frontiers?
(4) Is the country freely governed?
(5) What have been the acts and declarations of the Government concerned with regard to:

(*a*) The fulfilment of her international obligations?
(*b*) The regulations of the League as regards armaments?

A sixth question was also put to the Baltic States (as also to Albania, the Balkan and Caucasian States): Were they willing to enforce the principles of the Minorities Treaties and to take the necessary measures to carry them into effect? As all answers were satisfactory, it was decided to admit them.

The case of Lithuania demanded further treatment. The Sixth Commission reported that she had received a certain amount of *de jure* and *de*

facto recognition, that her Government was stable and free. But her frontiers were uncertain and she had recently mobilised troops, yet the Committee held that her actions did not violate Articles 1 and 8 of the Covenant.[1]

The final decision was really taken in Plenary Session of the Committee on September 20. Mr. Fisher, who had opposed Lithuania's admission in 1920, now advocated it strongly. He spoke in moving words of the heroism of her struggle and, referring to all possible objection, said: "If her frontiers are uncertain, so also are those of Poland"—a thrust which evidently went home on the Polish representative. Motta—the Swiss representative—in a speech of moving eloquence, called upon Poland not to deny rights and privileges to a small neighbour: "It is a little state, a young state. Can you refuse? You, a nation now raised from the dead, noble and chivalrous, the knight among nations. Can you refuse?" Professor Askenázy, the Polish representative (who did not particularly conform to one's idea of a knight errant), said that it was not because he hated Lithuania, but because he loved the quarter of a million Poles she might oppress and was oppressing, that he feared to vote for her admission. Mr. Fisher retorted with much effect that, outside the League, Lithuania was under no obligation to respect minorities, while once

[1] *Vide* Appendix I.

within the League she could be called to account for it. M. Restrepo, the Colombian representative, relieved the situation by a humorous speech. Last year he had voted for Lithuania, and "though I was supported by Achilles" (indicating Lord Robert Cecil), "I had against me the wisdom and power of the British Empire" (indicating Mr. Fisher). "Now that I have both on my side I am assured of victory. I do not know the religion of Lithuania—the Greek, I suppose. Ah, 'the Catholic!' one says; also a good religion. But I feel sure that she will prove an important part of the barrier against Bolshevism so vital to Poland." And so, he concluded, "I leave the Professor (Askenázy) to his reflections."

Everyone thought that the question was now decided, and that Professor Askenázy was isolated. Not so. M. Spalaiković, the Serb-Croat-Slovene delegate, intervened with one of his strangely fascinating speeches. With a wild look in his eye he said he thought those who sat round the table had forgotten the great Slav nation not represented at Geneva. Serbia could never forget her, for Russia had drawn the sword in her defence at the moment the torrent of war burst upon the world. The Russian ogre was not dead, but only asleep (a phrase which seemed to alarm Professor Askenázy), and one day the Russians would be seen on the shores of the Adriatic (which seemed to alarm the Italian representative). Therefore out of respect to that great nation he could not

vote in favour of dismembering her when she was helpless. He had indeed no enmity to any of these small states, but he must abstain from voting in their favour. Thus ended a remarkable speech, more remarkable still since M. Spalaikovič is a well-known anti-Bolshevik, who once, after calling on Lenin in a diplomatic capacity, terminated the interview in an undiplomatic manner with the words, "Assez, menteur, traitre!" ("Enough, liar and traitor!")

On September 22, on the motion of M. Reynald (France), the three states were formally admitted into the League by vote of the Assembly. But, significantly enough, though none voted against them, there were 12 members absent or abstaining in the case of Esthonia and Lithuania,[1] and 10 in the case of Latvia. Thus the family of the League was increased from 48 to 51 members.

(*d*) Other Applicants for Admission: Hungary and Germany

In a sense both Hungary and Germany were applicants for admission. But the latter expected the door to be opened without asking, and the former may be said to have knocked at the door and then run away.

Germany did not formally apply for admission, though the question of her doing so was hotly discussed in her Press. But the Argentine

[1] France was one of these.

Republic, before retiring from the League in 1920, had put down a seemingly innocent amendment of the Constitution, which would have had the effect of admitting her. It ran as follows: "That all sovereign states recognised by the Community of Nations be admitted to join the League of Nations in such a manner that, if they do not become members of the League, this can only be the result of a voluntary decision on their part." The Committee which examined these proposals found that they were lacking in precision. A state, imperfect from the point of view of sovereignty, might procure admission to the League, while recognition by the Community of Nations could not be expressed in precise terms. Moreover, the proposal if carried would necessitate amendments to Articles 1, 8, 9, 16 and 17. Though the Committee politely credited the Argentine Republic with "the highest motives" in making the suggestion,[1] they refused to adopt it, and Germany was therefore prevented from being able to creep into the League beneath the shadow of a vague phrase. It was noteworthy that France, in the person of M. Noblemaire, led the rejection of this amendment, that 28 other states voted with him, and Bolivia, Chile, Colombia and Venezuela against him. On the eve of departure from the Assembly Lord Robert Cecil opened a new prospect for Germany. He said that, if

[1] The Press was less urbane and suggested she was serving the interests of Germany, *e.g.*, *Telegraph*, September 7.

Germany applied next year *in propria persona*, he thought she would be admitted, and he would support her admission.

The case of Hungary was different. She had applied to the League for admission in due form, and the Hungarian Peace Treaty had come into force on July 26, 1921. But the difficulty remained that the provision regarding the cession of West Hungary (the Bürgen-land) to Austria remained unexecuted. The official attitude of the Hungarian Government was not encouraging, and armed Hungarian irregular bands under a Hungarian ex-premier filled the "Bürgen-land." The "Little Entente" were uncompromising in their opposition; the Rumanian, Take Jonescu, said bluntly (September 23): "When a state is a defaulter on the Treaty to which it has affixed its signature it is natural that this state should stay awhile in the ante-chamber." There was a difficulty also with the great as with the small powers. The former had publicly declared over and over again that they would never permit a Habsburg to return to the Hungarian throne, but had inserted no such provision in the Treaty. Count Apponyi took the line "that Hungary does not recognise any conditions but those of the Covenant and would not give any special assurance. Hungary would prefer remaining outside the League to lacking in national dignity." From the point of view of the League he was probably right, and if the Great Powers had voted against

the admission of Hungary on these grounds, they would have assumed an indefensible attitude. This is a striking testimony to the way in which the Covenant serves to assuage the harshness of treatment meted out to enemies.

None the less, the majority of delegates did not seem happy about the question, and the second Persian delegate, Zoka-Ed-Dovleh, was felt to have brought the wisdom of the East to bear on the West, when he remarked that to leave Hungary outside the League rendered very difficult the settlement of questions like disarmament, transit or frontier disputes, and even risked the establishment of another League. Everyone felt this, yet everyone was relieved when two days after (September 24) Count Apponyi finally announced the postponement of the demand for Hungary's admission to the League.[1]

(*e*) General Conclusions

It is not easy to exaggerate the importance of the power placed in the hands of the Assembly by its ability to refuse or to accept claimants for admission. Acceptance confirms or increases the independence and stability of a new state; refusal correspondingly discredits it. The conditions of admission impose on the applicant state the necessity of limiting its armaments, of executing

[1] The recent second attempt of the ill-advised Karl to return to Hungary has served only to injure his country, to embitter her external relations, and to delay her entry into the League.

its international engagements, of liberalising its Government, and in most cases also of protecting its racial minorities. Thus admission to the League is not only a welcoming of the state into the family of nations, but a certificate of good conduct as well. All previous recognising authorities have never disclosed their reasons for recognition. The League, by disclosing its reasons, at once deters states from applying until they have reached the required standards, and encourages them to apply when they have. The bracing moral atmosphere of the tests applied to claimants for admission would indeed not be without advantage if applied to certain original members of the League. If some of these were now to ask for admission, it would be interesting to know if Persia would pass the test of a free government, if Rumania would be approved for her attitude towards racial minorities, if Poland would be considered as having fulfilled her international obligations, and if the Serb-Croat-Slovene kingdom would be declared to be limiting its armaments. Some of the original members are very happy in that they can apply tests to others to which they might not always themselves be willing to submit.

A final word may be said on the question of small states. The Committee dealing with Constitutional Amendments at the Second Assembly debated long as to whether certain small states which were not admitted as members, like Monaco,

San Marino and Lichtenstein, could be associated in some way with the League. On the whole, though with regret and hesitation, they decided against this view, or, as they sagely phrased it, "decided to await the results of experience." It is, however, of interest that they confirmed the resolution of the First Assembly (December 17, 1920), that certain "sovereign states, by reason of their small size, could not be admitted as ordinary members." It is important that the League has therefore taken size as a test, not of statehood primarily indeed, but of League membership. Such a test may have far-reaching results in deciding what communities have a right to "self-determination." [1]

[1] I find this prophetic note in an unpublished fragment by Lord Acton in the Cambridge University Library: "The [French] Revolution established the right to make one's own government" (*i.e.*, to self-determination). "Who has the right? Not every part of a country. Not [La] Vendée, for instance [in France] but *Ireland*." The passages in brackets and the italics are my own.

IV

THE COURT OF PERMANENT INTERNATIONAL JUSTICE; AMENDING THE COVENANT [1]

I. The Court of Justice

(*a*) The Project of the Court and its Acceptance by the First Assembly, December 13, 1920

The creation of a Permanent Court of International Justice is the most ambitious attempt of the League. It is on different lines from the Permanent Court of Arbitration at the Hague. In an arbitration the parties are free to have recourse to judges of their own choice. Moreover, the Hague Court is in one sense not really permanent. The new Court was to be always available, with a limited number of judges holding regular sessions, giving their decisions not on rules laid down by the parties, but generally according to principles of law and international law. Such a Court can ultimately, if successful, not only develop, but create, a permanent international jurisprudence.

[1] I owe much here to an explanatory paper prepared by M. Hammarskjold of the League Secretariat and published by the League.

The Hague Conference in 1907 created a Court of Permanent Arbitration, but failed to create a Court of Justice. The League was bound to attempt to do so by Article 14 of the Covenant: "The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly." [1]

The new Court was intended fundamentally to be judicial and not arbitral. The great objection to such a court is that it does not permit all sovereign states to be represented on the judicial bench, and therefore might tend to favour the Great Powers. On the other hand, under Article 13 of the Covenant, the Court is only competent to determine disputes *which parties thereto submit to it.* The framers of the Covenant seem to have meant the Court to be one of Justice, not Arbitration,[2] but intended it to act as an

[1] The original draft of this article was: "The Executive Council shall formulate plans for the establishment of a permanent court of international justice, and this court shall, when established, be competent to hear and determine any matter which the parties recognise as suitable for submission to it for arbitration under the foregoing Article."

[2] This is now confirmed by proposed drafting amendments to Arts. 12, 13, 14, and 15 of the Covenant, which add the words, "or judicial settlement" to the word "arbitration" wherever it occurs.

arbitrator at the request of the parties. They intended it to be permanent and accessible, and to be provided with judges chosen for personal distinction, not for nationality, and meant the Court to judge according to law.

Eventually, on June 16, 1920, a Committee of Jurists was appointed to draw up a scheme. That eventually adopted was really drawn up by Lord Phillimore and Elihu Root (U.S.A.). This report was ultimately much revised under the influence of M. Bourgeois (France) and of M. Caclamanos (Greece), who reported on the scheme to the Council at Brussels, October, 1920. Much further revision was undertaken in committee, and finally the protocol establishing the Court was unanimously approved by the First Assembly at Geneva, December 13, 1920.[1]

The features of the scheme can only be generally indicated here. The Court is to frame its own rules of procedure, but to be guided generally by the rules by which tribunals of arbitration function under the Hague Conventions. French and English are to be the official languages—a very important point for an Englishman to note, as French was originally proposed as the sole language. Publicity is strongly recommended, but not made absolute. In respect to judgment, this Court, for the first time as regards international jurisdiction, can pronounce judgment by default. Probably this

[1] *Vide* Appendix II.

will only occur in the case of one of the parties not appearing. The Court has also the unusual power of making public the divergent views of the judges, with their reasons. This enables each judge to state the standpoint of the legal system which he represents, if he deems it necessary. The decision of the Court has no binding force except between the parties and in the special case. Previous judgments will only have a value, therefore, as indicating, and not as deciding, the new judgment. Where the interpretation of an international convention is concerned and when, in such case, a third party intervenes, the interpretation will bind all parties concerned. The judgments of the Court can be revised in the case of the discovery of new facts, and in any case are final after ten and a half years.

The system or rules of law to be applied are, of course, of great importance. One thing is certain, the system is not arbitrational. The general position is well stated by Hammarskjöld :

" The Statute of the Permanent Court once and for all lays down that the Court shall apply international conventions in so far as they can be considered as establishing rules expressly recognised by the litigant states. Side by side with such conventional law, international custom and the general principles of law recognised by civilised nations will be made use of—that is to say, general international law in force. It is for the Court itself to make out what is international law, and

it is in this domain that the jurisprudence of the Court will have its greatest importance as a means of codifying the law of nations. It is expressly stipulated that judicial decisions and the teachings of the most highly qualified publicists of the various nations may be taken into account, but, as has already been said, in the case of precedents, only as indicative and not as decisive factors.

" Attention should be drawn to the fact, already mentioned, that the Advisory Committee of Jurists that sat at The Hague recommended the convocation of Conferences of International Law mainly because it was considered that it would be extremely useful, not to say necessary, for the Court to be able to avail itself of a body of written rules. The Assembly's decision to discard this recommendation largely increases the importance of the rôle of the Court in creating International Law by its jurisprudence.

" To the Article concerning the material rules to be applied, the Assembly added the right for the Court to decide a case *ex aequo et bono*, if the parties thereto agreed. Of course, this stipulation will have to be interpreted according to its wording, and this wording certainly gives the Court the power to act as an arbitrator, should the parties so decide. The stipulation is therefore the confirmation of the *prima facie* opinion on the character of the new Court which, as has been explained in an introductory way, was conveyed to any student of Article 14 of the Covenant

and of its precedents—namely, the opinion that the Court should be a judicial institution with the right to act as an arbitrator.

"However, if one may look behind the actual wording and to the intentions of the framers of the stipulations, it should be noted that those intentions certainly were to enable the Court to render what, in French law, is called 'jugements d'accord,' that is to say, to confirm by a judgment an agreement reached between the parties." [1]

The Court includes within its jurisdiction the disputes submitted to it by parties. Secondly, the Court has jurisdiction in all matters provided for in treaties and conventions. These are already considerable. In the case of difference between a principal allied power and a power who has signed a Minority Treaty or Minority Clauses (*vide* Chapter V. *passim*), over the meaning of such articles either in law or fact, appeal lies to the Permanent Court of Justice, whose decision shall be final.[2] A large number of appeals are provided for under the clauses relating to International Labour, which appear in all the Peace Treaties, and under those relating to Ports—

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[1] As regards the personal competence of the Court, it appears that advisory opinions can only be given to Council and to Assembly. Only states and members of the League (*i.e.*, states, dominions and self-governing colonies) can be parties to disputes. States, not members, may have special conditions imposed on them by the Council, but these are purely financial.

[2] *Vide* Austrian Treaty, Art. 69, Hungarian, Art. 60. Bulgarian, Art. 57, and the Rumanian, Polish, Czecho-Slovak, Serb-Croat-Slovene, and Greek Minorities Treaties:

Waterways and Railways. Similar appeals are sure to multiply in the future.

(*b*) The "Compulsory Jurisdiction" Clause

The question of compulsory jurisdiction awakened lively discussion in committee. The Committee of Jurists had proposed to apply this originally to practically all questions of a legal nature. They found wide support in the Assembly, but the proposal was eventually quashed by the Council, *i.e.*, by the influence of the Great Powers. Ultimately an optional clause was introduced enabling such states as wished to bind themselves to the principle of "compulsory jurisdiction" on condition of reciprocity, for such time as they deem fit, and with regard to the same kind of disputes described under Article 13 of the Covenant as being generally suitable for arbitration.[1]

The enumeration given in the note deals with the whole field of international disputes except these which are really political. Moreover, a power which signs the optional clause, in effect signs a convention between itself and all others who have signed this clause, creating a binding obligation to accept the compulsory jurisdiction of the Court—subject to the limits specified—of

[1] *E.g.*, legal disputes over the interpretation of a treaty, concerning any question of international law, concerning the existence of any part which, if established, would constitute a breach of international obligation, and concerning the nature and extent of reparation for such a breach.

validity and reciprocity. Such states do not, therefore, need the special clauses of a treaty or convention to arraign one another before the Permanent Court. Herein clearly is the germ of a very great development. The number of states who had accepted this clause was seven in June; it had risen in October to thirteen, including Denmark, Norway, Sweden and Switzerland. Significantly enough, no Great Powers have yet signed.

The three Scandinavian Governments also proposed amendments to Articles 12-13 and 15 of the Covenant, which would have had the effect of making reference to the Court of Justice or to Commissions of Arbitration or to arbitration generally a more imperative duty for members of the League, and would have withdrawn the process of settlement by arbitration or conciliation from the Council and Assembly on the ground that the Council is too political and the Assembly too large to deal effectively with these matters. These proposals were politely rejected by the First Committee.

There is no fear but that the Court will have plenty of work to do; the fear is as to what its decisions will be and how far they are likely to be accepted. Untrammelled by inconvenient precedents these judges have the grand possibility before them of creating, for the first time in history, a proper standard of international justice.

(c) The Establishment of the Court and the Election of the Judges by the Second Assembly

So far we have dealt solely with the construction of the project and its acceptance by the First Assembly. The even more difficult work remained of getting the machinery into working order. This was considerable, for it was one thing to get the League Assembly to accept the protocol of the Court of International Justice and quite another to get the individual states to sign and ratify it. To her eternal honour Sweden led the way in ratification (December 21, 1920). It was not a lead that was followed rapidly, and little attention seems to have been paid to the matter in Great Britain until Lord Robert Cecil raised the question in Parliament. On June 21 the Secretary-General reported that 38 States had signed but that only four had ratified it, and that 24 ratifications were necessary before the next session of the Assembly to enable the Court to come into existence. These were ultimately secured, and shortly after the opening of the Assembly the number of ratifications rose to 30. It was therefore possible to proceed to the election of judges.

The judges were to be 11 in number, with four deputy-judges. Nominations had already been made. Election was to be by a curious joint system, the Council and the Assembly each electing, the former in private, the latter in public,

and arriving at agreement by comparing results. On September 14 results showed that both the Council and the Assembly agreed on nine judges, who were accordingly declared elected. The Council had refused to accept Alvarez (Chile) and Huber (Switzerland). After a further vote of the Assembly Huber (Switzerland) and Nyholm (Denmark) were chosen and elected by the Council. A vigorous attempt was then made by the Assembly to choose Alvarez (Chile) as a deputy-judge. This was opposed by the Council, whose candidate was Descamps, of Belgium. Finally, after many ballots and much heat, Beichmann of Norway was elected. The total list therefore ran as follows :

		Judges.	*Deputies.*
Latin group (6)	*Brazil*	BARBOZA	
	Cuba	BUSTAMANTE	
	France	A. WEISS	
	Italy	ANZILOTTI	
	Rumania		NEGULESCU
	Spain	ALTAMIRA	
Slav group (1)	*Serb-Croat-Slovene*		YOVANOVICH
Germanic and Scandinavian (4)	*Denmark*	NYHOLM	
	Holland	LODER	
	Norway		BEICHMANN
	Switzerland	HUBER	
Common Law group	*United States*	MOORE	
	Great Britain	VISCT. FINLAY	
Asia (2)	*Japan*	ODA	
	China		WANG

In Lord Finlay and Bassett Moore jurists of the first rank were certainly chosen, and Altamira,

though not a jurist, is one of the first of historians. The responsibility lies on other nations for not nominating more eminent jurists. The Latin races, whose system of law is relatively uniform, have obtained an over-representation, whilst the common law, which controls hundreds of millions of men, is represented only by two. Sir Robert Borden and Ameer Ali (India) were not elected, so that neither our self-governing dominions nor the whole system of Mohammedan law have any direct representative. A Yugo-slav represents all Slavonia, a Switzer all Germanic law; Magyar law is not represented at all. "Because thou dost not dream thou needst not then despair." We may perhaps solace ourselves with Briand's message (September 20): "There is no doubt that this High Court, so constituted . . . will establish the rule of law (le règne du droit) between the nations."

II. Amending the Constitution

(*a*) General

The Covenant was a brilliant improvisation drawn up at the Peace Conference in a few weeks by a Commission working at red-hot pressure.[1] It was made in the main by statesmen and not by lawyers, whom President Wilson did not love.

[1] A good instance of this is the serious divergencies of the French and English texts.

In result many of its clauses have a vague or semi-political meaning. This fact has been of a certain advantage, for the conditions under which the Covenant was drawn up were such as to make precision dangerous. It resembles Napoleon's ideal of a constitution, which was that it should be "short and obscure." The Covenant is certainly both. It contains hardly a sentence, certainly no one article, whose meaning is absolutely clear Consequently its body is naturally the place where the legally-minded vultures will be gathered together. This is as it should be; there is no harm if they pluck off the feathers, but they must not destroy the bird. In a cosmopolitan committee full of men proud of their legal subtlety, there is an uncommon danger of this kind. Most fortunately the Council, on request of the First Assembly, appointed a Committee to study and report on proposed amendments, which selected Mr. Balfour as chairman. To a mind of a subtlety equal to the most clear-seeing lawyer, the British delegate added a far-seeing political vision, and the result was that his whole effort was bent, and as it proved successfully, towards making the Covenant a living force and one capable of amending and renewing its life. A mere lawyer might have stifled it with subtleties.

The Committee held its first session on April 6, 1921, but no serious amendments could come up to be voted on until the Second Assembly met.

One amendment to Article 1, concerning the admission of states, was reported on adversely by the Committee (September 30) as has already been told elsewhere (Chapter III., Sect. *e*). It would have involved a transformation of the nature of the League and would have admitted Germany without satisfying the League that she had passed the tests previously required for admission.

(*b*) Article 26 and the Power of Amendment

In striking contrast to this Amendment to Article 1 (which, if carried, would have transformed both Covenant and League) stood the question of the conditions of voting on and the ratification of amendments to the Covenant. This was obviously crucial, for, if the Covenant could not be amended or revised, it would be confined in a strait-waistcoat which would ultimately suffocate it. Certainly, if we may change the metaphor, asphyxiating gas lurked in Article 26. It runs as follows (first par.): "Amendments to the Covenant will take effect when ratified by the members of the League whose representatives compose the Council and by a majority of members of the League whose representatives compose the Assembly."

This of course refers only to the conditions of ratification needed to bring an amendment into

force. Does it also refer to voting in the Assembly or not? If it does, the constitution is flexible and can be amended. If it does not, the vote of the Assembly is governed by Article 5, which provides that its vote must be unanimous unless otherwise expressly provided. The danger of unanimity being necessary to amendment was therefore a very real one.

Mr. Balfour at once drew the attention of the Committee to this danger (September 23). He pointed out that it was a possible interpretation of this clause that a single recalcitrant state could prevent amendment. That was a juristical conclusion which he, though not a jurist, would oppose. In the first place he brought evidence to show that the actual wording was incorrect. President Wilson, in a speech introducing the Covenant in its final form, April 28, 1919, said: "Article 26 permits the amendment of the Covenant by a majority of the states composing the Assembly, instead of three-fourths of the states, though it does not change the requirement in that matter with regard to the vote in the Council." [1] This utterance was not contradicted,

[1] *Vide* also the British Official Commentary, Cmd. 151 (1919) p. 19: "The provisions of Article XXVI. facilitate the adoption of amendments to the Covenant, seeing that all ordinary decisions of the Assembly have to be unanimous. . . . It is the facility of amendment ensured by this article, and the absence of restrictions on the activities of the Assembly, the Council and the Secretariat, which make the constitution of the League flexible and elastic, and go far to compensate for the omissions and defects from which no instrument can be free that represents the fusion of so many and various currents of thought and interest."

and is really decisive as to intention; and its tenor was confirmed by Mr. Doherty, the Canadian Chief Justice. Mr. Balfour therefore held that the intention of the framers of Article 26 had been to permit amendment of the Covenant either by a simple majority or a three-fourths majority, and not to insist on unanimity. Any process of amendment should be to assist and not to strangle. Every living organism must grow and expand. States can hardly approve a Covenant which is subject to no process of amendment like their own Constitutions. "Even the Covenant was not the result of an inspiration." Any defect the Covenant may contain must become doubly dangerous when it is evidently irremediable.

A lively discussion ensued. France had special reasons for not wishing the Covenant to be changed, and M. Noblemaire insisted on unanimity. He was supported by Struycken, of the Netherlands, from a purely legalistic standpoint. Otherwise the discussion generally favoured Mr. Balfour's view. One point emerged clearly, *viz.*, that the sovereignty of states was in no way infringed by amendment by a bare or a three-fourths majority. For under Paragraph 2 of Article 26 "no such amendment shall bind any member of the League which signifies its dissent therefrom, but in that case it shall cease to be a member of the League." The sovereignty of states was not at stake, but a means of bringing moral pressure to bear on them

was. A representative of a state would feel the atmosphere of an Assembly, if three-fourths could carry the day against him. But if he alone could veto all proceedings, like a Polish nobleman at the old Polish Parliament, he might be actually encouraged to do so. On the other hand, no state would lightly refuse to accept an amendment if refusal carried with it withdrawal from the League.

The discussion was not finished in a day, and countless counter-proposals were drafted. One home-thrust by Mr. Balfour told on his too juristically minded opponents. "If amendments are impossible, why have we spent all this time considering them?" This brought the Committee to a full sense of its dignity, and eventually a compromise, satisfactory to all, was arrived at. The Committee finally, on September 29, brought forward a recommendation, a resolution, and a decision on procedure. The Committee decided to "recommend to the delegations not to pass during this session any resolution of amendment unless it receives a three-fourths majority (of the Assembly), amongst which must be included the votes of all the members of the Council represented at the meeting." The resolution, the result of an ingenious compromise between the Rumanian Negulescu and the Dutchman, Struycken, was an amendment of Article 26, as follows: "Amendments to the present Covenant, the text of which shall have been voted by the

Assembly by a three-fourths majority in which there shall be included the votes of all the members of the Council represented at the meeting, will take effect when ratified by members of the League whose representatives composed the Council when the vote was taken. and by the majority of those whose representatives formed the Assembly.

" If the required number of ratifications shall not have been obtained within eighteen months after the vote of the Assembly, the proposed amendment shall remain without effect.

" The Secretary-General shall inform the members of the taking effect of an amendment.

" Any member of the League which has not at that time ratified the Amendment is free to notify the Secretary-General within a year of its refusal to accept it, but in that case it shall cease to be a member of the League."

Lastly there was a decision on procedure. " The Committee requested its rapporteur to draw the Assembly's attention to the fact that it is most desirable that the vote on the proposed Amendment to Article 26 should be unanimous in order that this vote may have all the authority that could be wished."

In other words, the Assembly ought to recognise that, as the legal position was doubtful, the Amendment of Article 26 must be carried unanimously. The Assembly rose to the occasion and carried the

resolution unanimously on October 3, though there were 14 abstentions.

Though it was largely an unseen crisis, this was one of the most real ones in the history of the League. The pedantic lawyers and the lovers of juristic technicalities had had a dangerous opportunity. In all probability the original framers of Article 26 meant that amendments should be carried by a simple, certainly by a three-fourths, majority of the Assembly. This unfortunately was not what they said, or rather, wrote. A careless verbal slip therefore threatened the life of the Covenant. Owing largely to Mr. Balfour's intervention this danger was averted. The Covenant still wears a tightish waistcoat and cannot easily expand or grow, but fortunately it is not a strait-waistcoat.

(*c*) Other Amendments

These concerned a number of topics. Some of them were purely technical, such as those dealing with drafting amendments to Articles 12, 13, 14 and 15 necessitated by the creation of a Permanent Court of Justice. Others dealt with compulsory jurisdictions;[1] others dealt with such questions as the composition of the Council. On neither of these last two points was any definite decision reached. A lively discussion arose about Article 10,

[1] *Vide supra*, Chap. iv. 1, Sect. *b*.

which Canada wished to delete. This is the famous Article by which "the members of the League undertake to respect and preserve, as against external aggression, the territorial integrity and existing political independence of all members of the League. In case of any such aggression or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled." This Article ruined President Wilson, its author, and alienated the United States. France, not feeling as secure as Canada against territorial aggression, vigorously opposed the deletion of this article. Ultimately, as great divergence of opinion existed on the meaning of the Article,[1] the Committee reported in favour of taking no action in the matter.

Interesting amendments were also proposed on the subject of Article 16 (the Economic Weapon) and on Article 18 (Registration of Treaties). In neither case were satisfactory conclusions reached, as both subjects bristled with difficulties. It seems to be clear, however, that all international agreements could not be registered, that exceptions should be made in the case of technical and certain other conventions, and that, on the whole, this would produce more satisfactory results. As regards the Economic Weapon—a long series of proposals was adopted by a Resolution of the Assembly. The Council was to express the opinion

[1] It is not clear, for example, that members of the Assembly, apart from the Council, are bound by the latter's advice.

as to whether a state had broken the Covenant, and to invite members to apply economic pressure. But "it is the duty of each member of the League to decide for itself whether a breach of the Covenant has been committed." This seems to nullify the effect and universality of economic pressure. Yet the threat of it brought the Serb-Croat-Slovene state to its knees in November (*vide* Chapter VIII., Sect. *h*).

(*d*) The Proposed Amendment to Article 21

Perhaps, however, after Article 26, the most important amendment of all was that to Article 21. The Article runs as follows: "Nothing in this Covenant shall be deemed to affect the validity of international engagements such as treaties of arbitration or regional understandings like the Monroe Doctrine for securing the maintenance of peace." To which the Czecho-Slovak Government proposed to add:

"Agreements between members of the League tending to define or complete the engagements contained in the Covenant for the maintenance of peace or the promotion of international co-operation, may not only be approved by the League, but also promoted and negotiated under its auspices, provided these agreements are not inconsistent with the terms of the Covenant.

"Special Conferences of the members of the

League concerned may be summoned for this purpose by the Council or by the Assembly."

This project, which was obviously due to Dr. Benesh, was wise and statesmanlike. He had concluded agreements with Rumania and the Serb-Croat-Slovene state for enforcing the Austrian, Hungarian and Bulgarian Treaties. These are known as the "Little Entente." Dr. Benesh thought small leagues or alliances inevitable and preferred them to be negotiated under the auspices, and thus to some extent under the control, of the League. It seems that this was a sound proposal. China had formulated, but did not press, an amendment to remove the phrase "regional understandings," or to add a proviso that such understandings were not to be detrimental to the interests and rights of other members of the League not parties to them. Dr. Benesh's amendment would have provided for the latter. It was based on the realisation of the unpalatable fact that a general league had, in effect, broken down, and that ententes and alliances were growing up within it. Dr. Benesh proposed to deal with "leagues within the League" by making the Assembly approve of them. This suggestion was eminently wise and practical. It meant that certain groups of states had regional interests and that these should be pursued under the ægis of the League. It is almost a federalist principle, and was emphasised at the Barcelona Conference on Transit in March-April of 1920. It found

support both among many members of the League and in the Press. On the whole, however, the First Committee decided that the time was not ripe for this interesting proposal to be practically accepted.

V

MINORITIES AND MANDATES

Two of the noblest functions of the League are the protection of those placed under alien rule—whether they be the backward races of mankind or relatively civilised racial minorities. The task is in each case one of the greatest delicacy and difficulty, and one which the League is particularly qualified to undertake, for it demands permanent supervision by an expert staff and the collection and systemisation of information. Such tasks can best be undertaken by a neutral and international body, and it is, in fact, of considerable interest that the member of the Secretariat dealing with Minorities is M. Colban, a Scandinavian, and the one dealing with Mandates Professor W. E. Rappard, a Switzer, whilst the majority of the Permanent Mandates Commission is composed of representatives of powers not directly interested.

I. Minorities [1]

(*a*) Previous Precedents

The position as regards protection of racial Minorities is a curious one. Ever since 1830, as

[1] *Vide* an excellent article in *History of Peace Conference*, vol. v., chap. ii.

the liberation of the Balkan States proceeded, the Great Powers had pursued the practice of not recognising new states like Greece, Rumania, etc., without exacting from them pledges in the form of international agreements to protect the racial or religious minorities acquired by these new, but not always highly civilised, states. In origin the aim was to protect Mohammedans against the Christian bigotry of the newly-formed states. But, as Greece hated Slavs, and *vice versa*, and as every Balkan race hated the Jews, provisions for protecting other races were gradually inserted. A practically complete protective system, guaranteed by the Great Powers, had been evolved and was endorsed by the Congress of Berlin in 1878 and applied to Greece, Servia, Rumania and Bulgaria. The Sultan was also induced to give a general undertaking to protect his Christian subjects. The Balkan war of 1912-3 added new territory to the Balkan States, but, though they undertook no new obligation for protecting the new racial minorities they acquired, it is clear that the Congress of Berlin arrangements were still regarded as in force.

(*b*) Minorities Treaties Agreed upon by the Peace Conference

At the Peace Conference in 1919 all the enlarged states of Central and East Europe, like Rumania, the Serb-Croat-Slovene kingdom, and Greece, and

the new states, like Poland and Czecho-Slovakia, received immense territories and large blocks of alien races and religions. Racial passions were so heated in the war that it was clearly the duty of the principal powers, who had conquered and could dispose of these territories, to exact pledges from these respective countries before handing over to them the alien populations. A series of Minorities Treaties was thereupon prepared. Czecho-Slovakia—to her very great honour—made no difficulty about signing her Treaty. Greece made very little, and Poland was not in a position to resist, because she was presented with the necessity of signing a pledge to protect her minorities at the same time as she received recognition of her existence by international agreement in the Treaty of Versailles. The Polish Minorities Treaty only came into force on January 10, 1920. Rumania and the Serb-Croat-Slovene state made a great resistance, and they did not finally surrender and sign their respective Minorities Treaties until December, 1919. The Czecho-Slovak,[1] the Serb-Croat-Slovene and Rumanian Minorities Treaties apparently came into force before the end of 1920. But the Council of the League—curiously enough—appears to have held

[1] By this time the Serb-Croat-Slovenes, the Czecho-Slovaks and Rumanians had all ratified, and two of the four principal powers in each case. As there were no special conditions of ratification inserted in these treaties, these would appear sufficient.

that the Rumanian Treaty was not in force until the summer of 1921.

(c) Procedure as Regards Protection of Minorities

It is obvious that an international guarantee for the Protection of Minorities is very difficult to enforce. All the Treaties declare such protection to be "an object of international concern," and no such obligations can be modified without the consent of a majority of the Council of the League.[1] At the same time it is quite clear that, unless the matter is very carefully handled, well-intentioned busybodies or ill-intentioned mischief-makers might make unfounded accusations against a Government with impunity. The provision in these Treaties that a member of the Council of the League has the right to draw the attention of the Council to "any infraction, or danger of infraction, of any of these obligations," does not entirely meet the case. This does not prevent a false or partisan accusation being made against a state, and the original story may get a start of the denial. To avoid these difficulties a procedure, suggested originally at Brussels, October 22, 1920, was adopted and extended to Czecho-Slovakia

[1] By an interesting provision in all these Treaties, *e.g.*, Art. 12, Rumanian Treaty, "the United States, the British Empire, France, Italy and Japan agree not to withhold their assent from any of these Articles which is in due form assented to by a majority of the Council of the League of Nations."

and Poland by the Council on June 27, 1921. Petitions concerning protection of religious and racial minorities from petitioners, other than members of the League, are to be communicated to the State concerned. Within three weeks the state concerned must answer the petition or declare that it has no comment to make. It is only then that the petition will be communicated by the Council to the Members of the League generally. If the state concerned wishes to submit comments, a further period of two months is permitted it and the petition with the comments will then be transmitted to the members of the League. Czecho-Slovakia and Poland immediately adopted this procedure. The Serb-Croat-Slovene state refused to adopt it, and preferred the procedure of October 22, 1920, which M. Spalaiković expressed to the Assembly as follows on September 9: "We accept the position that the Secretary-General should inform all the members, who are represented at the Council, of the petition, but we cannot accept the position that such communications should be circulated to any member of the League, because it is impossible for us to control the consequences of such widespread publicity."

The matter did not end here. Professor Gilbert Murray, third delegate for South Africa, brought forward a motion on September 12, asking for a "Permanent Commission to consider and report upon complaints addressed

to the League on this matter, and, where necessary, to make enquiries on the spot." This would have represented a considerable advance even on the procedure adopted by Poland and Czecho-Slovakia. The proposal was referred to a Committee, which finally asked Professor Murray to withdraw his motion (which he did), and affirmed the procedure of the Resolution of the Council of October 25, 1920. This enables petitions to be considered by the residents and two members of the Council, and enquired into, to see if there is infraction or danger of infraction of the clauses of the Treaties for the protection of Minorities. Professor Murray's action, though withdrawn, had served the useful purpose of enabling the Assembly (and incidentally the public) to take note of the procedure in vogue.

(*d*) Agreements for the Protection of Minorities Negotiated by the League. Finland and Albania

By a resolution of the First Assembly of December 15, 1920, it was provided that, " in the event of Albania, the Baltic and Caucasian States being admitted to the League, the Assembly request that they should have the necessary measures to enforce the principles of the Minorities Treaties, and that they should arrange with the Council the details required to carry this object into effect." Albania and Finland were admitted as new states

by the First Assembly, and it became necessary to put this resolution into effect with regard to them. The problem was a new one, for the previous Minorities Treaties had been negotiated between the Principal Powers and the states concerned. It was only when the Minorities Treaties came into force that the League became their guardians. In the case of Albania and Finland, the League negotiated everything from the first. As, however, the League is neither a state nor a super-state, it cannot negotiate a treaty with anyone, and had to be content with extracting a solemn and signed declaration from Albania. Finland escaped very lightly. The Council reported that the Constitutional Law of Finland contained full stipulations covering all that was demanded for the protection of religious, racial or linguistic Minorities in the ordinary treaties. The only exception to this was in regard to the Aaland Islands, whose Swedish population had been specifically placed under the guarantee of the League by a resolution of the Council (June 27, 1921), which also provided in certain circumstances for action to be taken by the League. Generally speaking, the Council held that the position of Finland, as regards Minorities, was quite satisfactory (Resolution, October 2, 1921). As a whole, this was a generous view to take. It appears that only in 1918 were laws passed putting the Jews on an equality with other citizens, and, under the circumstances, a declaration

might have been more satisfactory than a general assurance of this kind. If a declaration had been made by Finland to the League, it could not have been abrogated in a hurry. But an anti-Semitic wave in Finland might cause a law to be repealed in a hurry. The existence of a declaration would have enabled a tolerant or liberal ministry in Finland to avoid giving way speedily to mob-pressure. Without such an instrument they may be helpless.

The question of Albania offered some difficulty, for the Greek Minority in Albania is strong in culture and vehement in national feeling. The Greeks demanded, therefore, that very special protection should be given to their Minority in Albania. They particularly demanded that Greece should have a right to complain direct to the Council in such case, instead of having to get a member of the Council to make her complaint for her. It was not felt possible to accede to this request, but, by putting together all the different devices for the protection of Minorities in any Treaty, reasonable security was given to the Greeks. Albania signed a Declaration on September 22, 1921, which was, in effect, a Minorities Treaty. Apart from the general provisions, there were several interesting articles. One provided that " an electoral system giving due consideration to the rights of racial, religious and linguistic Minorities will be applied in Albania." Another provided that " within six months from the date of

the present Declaration detailed information will be presented to the Council of the League of Nations with regard to the legal status of the religious communities, churches, convents, schools, voluntary establishments and associations of racial, religious and linguistic Minorities. The Albanian Government will take into account any advice it might receive from the League of Nations with regard to this question." It was also stated at the same time, though not inserted in the Declaration, that Albania would not object to a commission of enquiry or inspection being despatched by the League, if it was deemed necessary. It was, however, provided in the Declaration that any dispute between a member of the Council and Albania should be a dispute of an international character under Article 14 of the Covenant, and should be referred, on the demand of either party, to the Permanent Court of International Justice, whose decision shall be final, and have the same force and effect as an award under Article 13 of the Covenant. A similar article exists under all the Minorities Treaties as such.[1]

(*e*) Germany and the Polish Minorities Treaty

Hitherto no Power of the first rank has been asked to sign Minorities Treaties. It is a curious

[1] Declarations similar to the Albanian will have, in due course, to be extracted from Esthonia, Latvia and Lithuania.

fact that, when Italy acquired large new territories in the 'fifties and 'sixties, no such stipulations were demanded by the Great Powers, nor were they in 1919. But the result of the Upper Silesian award has necessitated a change in this policy. In making a political division of this territory, provision was also made for an Economic Union for a period of fifteen years. In the Polish zone of Upper Silesia, Poland was bound by her Minorities Treaty to give all rights and equality of treatment to German nationals, whereas Germany was not so bound to respect the rights of Polish nationals in the German zone. Hence the Council of the League recommended, and the Council of Ambassadors subsequently decreed, that the principal parts of the Polish Minorities Treaty should be subscribed to by the German Government—" at least for the transitional period of fifteen years . . . as regards these parts of Upper Silesia definitely recognised as part of Germany." This was demanded by " the principles of equity and the maintenance of the economic life of Upper Silesia." This arrangement was to be embodied in the Polish-German Convention, which was to be placed under the guarantee of the League of Nations in the same way as the Polish Minorities Treaty.[1]

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[1] *Cf.* Chapter VII., Sect. *g*.

(*f*) Execution of the Minorities Treaties

The practical outcome as to how far Minorities Treaties have been rendered effective must now be stated. Czecho-Slovakia has done the most up to date to carry out her Minorities Treaty. She has embodied some of the provisions in a Language-Law, and various embittered complaints made by Germans in Czecho-Slovakia have failed to date to make out any substantial grievance. Further, M. Osusky delighted the Assembly (September 15) by explaining in detail the measures taken by his Government in the autonomous province of Ruthenia, to safeguard the interests of the Ruthenes who live there. Under Hungary there were no State officials, and only 15 public functionaries, of Ruthenian race. Now there are 20 out of 54 state functionaries who are Ruthenes, including the Governor. Of other public functionaries there are 91 of Ruthenian race. Under Hungary there were 15 schools, now there are 511, teaching the Ruthenian tongue. That seems enough to say about Ruthenia. In Czecho-Slovakia as a whole the German and Magyar population numbers just under 29 per cent. Their share of primary and secondary schools, as well as of industrial and technical institutes and universities is, in each case, slightly over 30 per cent. In addition the electors have shown clearly that the system of proportional voting is fairly applied.

No other country can boast so good a record as this. The data are insufficient at present to ascertain the facts about the treatment of Minorities elsewhere. There have been complaints, of course, in several countries. But there are only two solid points which stand out. Greece has signed her Minorities Treaty but has refused to observe it until the Turkish Treaty is in force. This is sufficiently disagreeable, but there is worse to be recorded. Rumania has dispersed the Magyar university and professors of Koloszvar (Cluj). She has established a German faculty in the University, in addition to the Rumanian, but has at present made no provision for the teaching of Hungarian. It is improbable that this, or any other flagrant breach of the Minorities Treaties, can remain unobserved by the League. Those who denounce the Minorities Treaties as worthless should remember the resistance to signing them made by Rumania and by the Serb-Croat-Slovene state. If they were merely worthless scraps of paper why should these Powers have objected to signing them? Again, it is evident from the utterances and actions of their statesmen that these countries thoroughly understand the force of publicity and the importance of making their professions square with their practice. These considerations make it clear that the Council of the League has considerable powers, if and when it decides to use them. Moreover, if matters are pushed *à l'outrance* the Permanent Court of International Justice would

have to pronounce judgment, and that is a verdict from which any sinning state might shrink.[1]

II. Mandates

(*a*) General

The whole question of Mandates is still a most serious and very largely an unfinished one. The situation at the meeting of the first Assembly was that, after a considerable time, the Council received and defined the C Mandates.[2] The scope of these is thus indicated :

C. " There are territories, such as South-West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilisation, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population" (Art. 22 of Covenant of League).

[1] The four enemy Powers of Austria, Hungary, Bulgaria and Turkey have all had clauses for protecting Minorities inserted in their Treaties.

[2] The Powers to which C Mandates over ex-German territory were allotted were as follows : German Pacific possessions south of Equator (Australia), except German Samoa (New Zealand) and Nauru (Great Britain) ; German Pacific possessions north of Equator (Japan) ; German South-West Africa (Union of Africa).

The Japanese Government put in a dignified protest as to discrimination against Japanese subjects in mandated territories. At the same time the drafts of some of the A and B Mandates had been forwarded to the Council.[1] These are defined as follows:

A. "Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognised subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory."

B. "Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience or religion, subject only to the maintenance of public order and

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[1] Allocation was as follows:

A Mandates: Syria and Lebanon (France).
Mesopotamia and Palestine (Great Britain).

B Mandates: East Africa, Togo and Cameroons, part (Great Britain).
Togo and Cameroons, part (France).
East Africa, part (Belgium).

> morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League" (Art. 22 of Covenant).

Postponement of the consideration of these was suggested both by the British and Japanese Governments. Finally, on February 23, 1921, the United States, in one of the last of President Wilson's despatches, protested to the Council of the League against a definition of the Mandates without previously consulting the United States. He laid stress on three points: first, that the Island of Yap (C Mandate) had been allocated to Japan without the consent of the United States and against its wishes; second, that the draft Mandates should be submitted to the United States before definition by the Council; third, that there should be free and equal opportunities for trade for all parties in all mandated territories. The last was a pretty severe blow at the C Mandates, which permitted, as in the case of Nauru, the establishment of state monopolies by the state (in that case the British Government) to whom

the Mandate was entrusted.[1] As a result of all this, further consideration was postponed till the League meeting in September. As Mr. Harding had come into power the League invitation to the United States to send a representative to the next session of the Council remained unanswered.

(*b*) Powers of the Council of the League and of the Permanent Mandates Commission

Meanwhile, however, Sir Eric Drummond, the Secretary-General, in an interview reported in the *Times* of April 7, took occasion to expound publicly the powers of the League in respect to Mandates. The right to appoint the Mandatory Powers and to determine their territories rested with the Principal Allied and Associated Powers who had acquired the sovereignty of the over-sea possessions of Germany by the Treaty of Versailles. A paragraph of Article 22 defined their duties as follows :

" In every case of Mandate, the Mandatory shall render to the Council an annual report in reference to the territory committed to its charge.

" The degree of authority, control, or administration to be exercised by the Mandatory shall, if not previously agreed upon by the members of the

[1] *Vide* a severe criticism of the British policy, House of Commons, June 16, 1921. This is, however, not the case with A and B Mandates. The latter stipulates for equal commercial opportunities for other members of the League, though not for the U.S.A.

League, be explicitly defined in each case by the Council.

"A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the Mandates."

The Council had interpreted this as meaning that in theory they had the right (in the absence of any convention between these members) to regulate the position of the Mandatory. In practice they had considered that the Principal Powers should present to them draft Mandates (which they had done in the C Class), and that the Council was to confine its attention to seeing that these drafts were in accordance with Article 22, and to undertake to alter them if they were not.

The Permanent Mandates Commission, which was to be constituted, had not, however, the power to alter or control the expenditure incurred in administering mandated territory. They had simply the power to examine the annual reports, to offer observations on them to the representative of the mandatory power concerned, and to communicate them, together with his comments, to the Council of the League. But neither the Permanent Commission nor the Council had the authority to impose on any Mandatory Power any alteration in the terms of the Mandate once determined.

This refreshing dose of common sense made the position clear to the general public. In Great Britain the wildest ideas as to the League's powers had prevailed, and the extreme enthusiasts were now disillusioned. The League was not to govern millions of men, to rule and to protect them from crime and militarism. It was only to say they were so protected. Meanwhile the Permanent Mandates Commission was established on February 22. It consisted of nine members, of whom the majority were not representatives of Mandatory Powers, one of whom was a woman.[1]

(*c*) The Letter of the United States, end of August

Just before the Assembly met, the United States did send a reply on the question of Mandates, which was of a highly important and highly confidential character. Its contents have not been made public, but it is usually supposed that the following summary by a brilliant journalist is an adequate one: [2]

"The contents of her Note have been known in certain circles in London for ten days or more, and I can indicate broadly its nature.

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[1] Beau (France), Ormsby-Gore (Great Britain), d'Audrade (Portugal), Pierre Orts (Belgium), Yanagida (Japan), Madame Anna Bugge-Wicksell (Sweden), Van Rees (Holland), Theodoli (Italy). Governor Cameron Forbes (U.S.A.) was invited, but declined, and was replaced by M. Ramon Pina y Milles.

[2] H. Wilson Harris, *Daily News*, Sept. 5.

"The United States Government:

(1) Reaffirms its right to be consulted as to the disposition of any ex-German possessions.

(2) Argues that though it was never at war with Turkey, it is entitled to an equal voice here because without American help against Germany Turkey would never have been defeated.

(3) Asks that wherever equality of trade opportunity is secured under Mandate to all members of the League America shall be put on the same footing.

(4) Proposes that in Syria, Palestine, and Mesopotamia the Capitulations shall be maintained till a new and effective Government is in existence.

(5) Claims that no Mandate shall be revised without the consent of America."

This reply agrees well with the tenor of the whole American attitude and obviously was a great embarrassment to the League.

(*d*) Action in the Assembly

On September 8 Lord Robert Cecil proposed a draft Resolution to the Assembly, regretting the delay in the definition of the Mandates A and B, admitting that the Council was not responsible

for it, but requesting a definition of the Mandates forthwith. This was referred to a sub-committee, which reported to Committee No. VI. on September 19. They endorsed the first part of Lord Robert Cecil's motion, but expressed the view that the United States' attitude rendered further delay desirable. They thought that the A Mandates (Mesopotamia, Syria, etc.) depended on the Turkish Treaty being ratified, and therefore could not be proceeded with. But the B Mandates (East Africa, Cameroons, etc.) were different, for they depended on the Treaty of Versailles which was in force, and had been before the Council since the beginning of the year. It suggested that the Council should approve the application of the Mandate system to Togoland and the Cameroons, and should recognise the Franco-British declarations of July 10, 1919, as decisive of their respective spheres. The Council should further acquaint the Mandatory Powers that, subject to modifications in detail, they thought the B Mandates did express "the high objects which the Covenant has in view, and lay down, in a spirit in harmony with that of the Covenant, safeguards for the rights of all members of the League."

On the 20th this report was submitted for approval to a public meeting of the sixth committee. Lord Robert Cecil made some serious criticisms as regards British draft B Mandates: that there was no period fixed for suppression of domestic slavery, and that there was an

insufficient prohibition of the liquor traffic.[1] He believed, however, that on the whole the British B Mandates, and "doubtless also the French," conformed to the spirit of the Covenant. He wished to alter the resolution so as to enforce the defining of the B Mandates at once. After various speeches a serious passage occurred between Mr. Fisher as British delegate and Lord Robert as South African, the former declining to accept the latter's proposal. Finally Lord Robert offered not to insist on his point of view "if Mr. Fisher could assure him that the Council would at once ask the Powers provisionally entrusted with Mandates to submit reports to it in conformity with the present draft Mandates." Mr. Fisher answered that there was no legally binding obligation, but that the British Government would not only submit reports, but would give the permanent Mandates Commission all the information it might require. M. Reynald (France) gave the same assurance and was followed by M. Poullet of Belgium.[2] This was a great triumph of moral pressure, and cleared away from the Mandatory Powers the dubious atmosphere in which they had hitherto worked. It was not pleasant, even if legal, to administer territories with a draft Mandate

[1] M. Reynald (France) pointed out that total prohibition sometimes had bad results with natives. Sir James Allen (New Zealand) said it led some natives to brew alcohol from pineapples with deleterious results. The latter speech was in the Assembly, Sept. 23.

[2] Some anxiety exists as to the question of military service in French Mandated areas.

under "a sacred trust," when the supervising authority knew nothing about it. On the whole therefore, in thus obtaining an informal supervision by the Council, Lord Robert secured a notable triumph. The resolutions, as proposed by the sub-committee, was adopted by the Assembly on the 23rd, and in the first days of October the Mandates Commission met.

In the Mandates Debate (September 23) Dr. Nansen, the Chairman of the sub-committee, lent his great weight to emphasising the defects in the B Mandates, which Lord Robert had pointed out. Lord Robert himself laid great stress on the Mandatory Powers "having agreed to answer any question which the Mandates Commission may ask them about their administration." He claimed with some justice that this practically amounted to setting up the B Mandate system. He finally defined as its essence the two principles of not exploiting the native, and of permitting free commercial intercourse. M. Bourgeois also spoke, and, as always, was listened to with deep respect. An interesting speech was that of the delegate of Haiti, who spoke perfect French. He made the valuable suggestion that a native should be associated with the Mandates Commission, and the complimentary admission, "I wish further to say, in the name of all coloured races, and particularly of the black races, that they have confidence in the League of Nations." This formed a suitable close to a debate which had raised the

whole Mandates question to a higher level. People remembered with interest that Mr. Balfour, who now heartily approved the Second Assembly's resolution, had protested somewhat vehemently at the First Assembly's discussing Mandates at all. The distance travelled was evident. Owing to the pressure of the Assembly and of Lord Robert Cecil, the supervision of the B Mandates has really begun, and has begun in a form to which the United States cannot reasonably object.

VI

THE DISPUTE BETWEEN LITHUANIA AND POLAND

(*a*) Ancient History

THE story of this dispute goes very far back in the history of the two countries. Early in the Middle Ages the Poles became Catholics and formed a civilised kingdom constantly subjected to German pressure and attacks from the Teutonic knights. Poland was in danger of extinction, and was saved by a marriage—Hedwige, Queen of Poland in her own right offered herself and her crown to Jagello, the heathen duke of Lithuania, on condition he became a Christian. Hedwige was already betrothed, but her scruples are said to have been overcome by the information that Jagello was handsome. If so, the good looks of Jagello were the salvation of Poland, and a main cause of the present Polish situation. Jagello, who was baptised as Ladislas, converted his Lithuanian people and brought them to the aid of Poland and his bride. The two peoples, fighting together under Ladislas Jagello, defeated the Teutonic knights, and slew their Grand Master at the famous first battle of Tannenberg (1410)

which was as fatal to the Germans as Hindenburg's victory was to the Russians in the late war. By this great victory the union of Lithuania and Poland was consummated and it was branded indelibly on all Polish minds that Lithuania was necessary to Poland as a defence against Germany and Russia. It makes no difference that conditions have utterly changed since then. In Polish eyes five centuries are but as yesterday.

(*b*) History since the Armistice

The trouble began after the Armistice in 1918. A sort of Government was organised by the Lithuanians, which expelled the Germans from their territory but did not prevent the Poles from occupying Vilna. On the approach of Trotsky's armies towards the Polish frontier in 1920 the Lithuanians made a treaty with the Bolsheviks, occupied Vilna, and professed neutrality as between Poles and Bolsheviks. Neutrality in any sense or cause is not intelligible to Poles and, after they had to their own considerable astonishment inflicted a crushing defeat on the Bolshevik armies before Warsaw, they turned to deal with Lithuania. Hostilities actually began and were only suspended by an appeal made in the first instance by the Polish Government to the Council of the League on September 5, 1920. Attempts were made to adjust these differences, but they were gravely injured by the action of Zeligowski, a

Polish general, who suddenly seized the town of Vilna by a coup d'état (October 9, 1920). Now the town of Vilna is important on several grounds. To the Lithuanians it is their largest town, their most important railway centre, and their destined capital. The Poles see in it a Polish island of culture amid a barbarous Lithuanian sea, a bulwark against the Bolsheviks, and a place memorable to Poles as the birthplace of their greatest national hero, of their greatest poet and of their present ruler. To Lithuania Vilna is a condition of present existence; to Poland it is a reminder of past greatness.

(*c*) Effect of Zeligowski's Coup

The Polish Government hastened to disavow Zeligowski, but their disavowals were not generally regarded as convincing. The solving of several similar problems has been attempted in Europe by unauthorised and lawless adventurers, whom respectable officials disavow. In one such case a Government may be the victim of its unofficial supporters, as Italy may have been with d'Annunzio at Fiume, or Hungary with Béla Kun at Budapest. But in the case of Poland there have been two violent disturbers of the peace: Korfanty in Upper Silesia and Zeligowski in Vilna. It becomes more difficult in two such cases to acquit the Government of all countenance of the marauder in question. This was instinctively felt by all

parties and greatly embarrassed the situation. The Polish Government had announced, as early as October, 1920, that it was about to put an end to "this regrettable incident," but even a year later nothing had been done in the matter. An inter-allied military commission despatched by the League did, however, in November, 1920, procure the signing of an armistice and cessation of hostilities between Zeligowski and the Lithuanians.

The Council of the League prepared a solution by plebiscite to the two interested parties. The plebiscite was to be taken in areas east of the so-called "Curzon line," which assigned a frontier to Poland approximately on ethnical grounds. Thus Lithuania was to form roughly an ethnic area, though some quarter of a million Poles would be contained in it in scattered groups, of which most would be in the Vilna area. The plebiscite would show whether, in addition to these purely ethnic Poles, there would be any pro-Poles who wished to join themselves to Poland.[1] A condition of this plebiscite, of course, was that Zeligowski should disband his troops. So the negotiations dragged wearily on once more, until the Lithuanian delegate declared in despair before the Council, on March 3, 1921, that "his Government did not hope for the definite regulation of difficulties

[1] The Lithuanians claimed that there were 20 per cent. of Poles in the Vilna area, the Poles that there were 60 per cent. So that even on statistics the two were not within forty per cent. of agreement.

from a plebiscite." The point of real difference was that the Poles wished Zeligowski and his troops to maintain order while the plebiscite was taken. An interesting proposal to supply an international force for this purpose fell to the ground, and both sides refused to demobilise their forces. One cannot blame the Lithuanians for this, but, tactically, they would have done better to demobilise. Their forces were much inferior to the Poles, and, in case of actual fighting, they would have been easily beaten. Consequently it was Poland, and not Lithuania, which gained by the latter's refusal to reduce her troops to a peace footing.

In consequence of the failure to come to agreement the Council on March 3, 1921, passed a resolution calling on the two parties to enter into direct negotiations under the Presidency of M. Hymans. The Conference met early in May, and M. Hymans displayed inexhaustible patience and ingenuity in his attempt to find a *modus vivendi*. The general nature of his proposal may be indicated in his own words, "The idea inspiring me . . . was to try and establish between the two countries very close ties, to create between them a sort of general entente, though at the same time respecting fully their sovereignty. These ties will not go as far as a federation, but they will approach it. This accomplished we could solve the problem of Vilna, by giving it to Lithuania, but establishing a regime in which

the rights of the whole Polish population would be respected and where the future of Polish culture will be fully assured." This project was accepted by the Council on June 28, and by Lithuania, but by Poland only with reservations as regards Zeligowski and Vilna. M. Hymans, in a last attempt at conciliation, summoned both parties to Geneva at the end of August.

On September 3 M. Hymans presented a new project of conciliation. The Lithuanian representative raised a large number of objections, of which some were material. The Polish representative made further objections chiefly on the ground that the basis of the proposal had been changed from that of May. The Council met in public session to discuss this question. Askenázy, the Polish representative, a professor and a tenacious man with a cold brown eye, reiterated his objections, mostly of the nature of quibbles. The Lithuanian Galvanauskas replied by a denunciation of Zeligowski, whose name Askenázy had not mentioned, and declared that nothing could be done till he left Vilna. Mr. Balfour then intervened in a speech that became very famous afterwards. He said he had "listened with amazement to Professor Askenázy's charge that the Council had treated 'this great question without sufficient consideration,' when M. Hymans has devoted week after week and month after month to the most patient long-suffering investigation of this lamentable controversy." He

remarked that it was difficult, in listening to both representatives, "to suppose that their main object was to come to an agreement." He pointed out that the challenge made by the Lithuanian representative to the Polish about Zeligowski "has never been taken up by the representative of Poland and to this day it is very difficult, even for the most impartial spectator of events, to know precisely what the attitude of the Polish Government is to the ex-Polish general. Is he a rebel deserving military sentence? Is he a patriot deserving the martyr's crown? We know not!" The fact "with all its lamentable consequences, which such an irregular eruption of troops must necessarily have on the final settlement, remained," and so did Zeligowski. . . . "It is not tolerable for Lithuania, for Poland, for the comity of nations, that this sore should be a running and perpetual sore."

All the other speakers took the same line, though none administered so tremendous an admonition to Askenâzy. Bourgeois, who touched a gentler note, reminded him that the Polish President when at Paris had said that "whatever admiration the Poles might have for a man who might be considered as a national hero, they none the less recognised that he was a rebel." He implored both sides to make sacrifices and thus to render to "your countries and to the whole world, the greatest and most decisive of all services." Professor Askenâzy replied, tenacious and

meticulous as ever. He declared the proposals of M. Hymans as " contrary to self-determination," and accomplished the almost impossible feat of again avoiding all mention of Zeligowski.

The Council indicated what it thought in no uncertain sense. It passed a resolution stating that both parties had assented to M. Hyman's scheme of May, 1921, and that that of September differed only in details. The scheme was the constitution of the Vilna area as an autonomous canton on the Swiss principle inside the Lithuanian State, and the negotiation of a political military and financial understanding between Poland and Lithuania. The Council approved the scheme and, though not referring the matter to the Assembly, requested M. Hymans to explain the scheme to it.

Before the Assembly met Askcnâzy had again been subjected to criticism, this time in Committee, and Lithuania had been admitted as an independent state to the League. On the 24th M. Hymans stated his plan to the Assembly in a speech which was a model of lucid exposition and scrupulous fairness to both parties. He concluded by a really moving appeal : " I understand the scruples and the hesitations of your Governments. I see Lithuania restless, distrustful, jealous of that independence that she has with such difficulty won. I see Poland in the intoxication of her new freedom experiencing such difficulty in restraining the fervour of her national aspirations.

"But we can all the same appeal to their wisdom and pacific spirit. . . .

"Finally, it is true that by the courage, by the energy, by the heroism of these two countries, the one has gained its independence, unknown till now, the other has revived and reappeared, heroic and chivalrous, in Eastern Europe. But all the same this work was not accomplished by them alone. It is the common work of people who, during four and a half years, have poured out their blood on the battlefields of Europe to make the Rights of Peoples triumph and to assure the victory of Liberty and Law.

"In the name of these peoples, as deputy of the Universe assembled here to attain at last that peace which escapes us, to try and realise, in fact, the peace proclaimed upon paper, but not yet definitely made, we demand of you two, solemnly here, that you make the noble gesture of peace, of consent and of conciliation."

This speech embodied a record of unexampled patience, ingenuity and enthusiasm on the part of a statesman of the first rank, labouring with perfect disinterestedness and in the noblest of all causes. It made so profound an impression that the Lithuanian delegate, who followed him, could only stammer out that he adhered to the project with certain important exceptions and that Zeligowski must go. Askenâzy more subtly pleaded the lateness of the hour and adjourned his remarks till the afternoon session. There was

thus time for the emotion to subside. In the afternoon Askenázy addressed himself to the question in the driest manner. It seemed as if he was trying by dulness to freeze enthusiasm. He claimed to be "no orator but a man of science." This time he did at last mention Zeligowski and in terms which did him no honour. "He is a brave soldier . . . and he went to Vilna impelled not by any personal ambition but by the will of the people of Vilna. As soon as they are sure that their voice will be heard, General Zeligowski will withdraw. . . . If you will give facilities for a free expression of opinion by the people of Vilna, General Zeligowski will not hesitate to withdraw *immediately*." After several other speeches, including one by Lord Robert Cecil, a resolution was put forward to the Assembly warmly approving M. Hymans' scheme, and giving the Council the full moral support of the Assembly. It was carried unanimously, but 16 states abstained from voting.

The end of this negotiation was a very sad one. Lithuania, as Mr. Balfour had hinted, was not blameless nor over-conciliatory in the negotiation. The Lithuanian Parliament subsequently refused to accept Hymans' plan by a small majority, Askenázy's last quoted words showed that Poland never intended to accept it. The League, therefore, had failed. Yet in fact both practically and morally, it achieved more than the Supreme Council. In the first place, by its intervention in

1920, it stopped the fighting and transformed the dispute from one between swords to one between words. Moreover, it is doubtful if Poland has gained even practically, for Lithuania is now an independent state and has been admitted to the League this year. When the dispute began, Lithuania was in an inferior position and was refused admission to the League. Therefore the time for extracting the maximum of concession from Lithuania, with the consent of other Powers, has gone by. Not only that, but Poland has cut no great figure in the world. Poland, opposing the admission of Lithuania to the League in the name of self-determination, was ridiculous. But when Askenázy claimed that Poland " as a member has always been faithful to the principles of the League," Poland was something worse than ridiculous and laid herself open to a deadly retort from Lord Robert Cecil: " Ten years ago Poland and freedom were terms which men naturally associated together . . . but I should not be dealing fairly with this Assembly if I did not add that in the last months grave disquietude has been caused by events in Central Europe. Men do not understand what is the drift of Polish policy. . . . It is a terrible thing that a country whose freedom we all acclaimed with enthusiasm, should somehow or another have exposed herself to that kind of criticism. Believe me it is a serious thing!"

It is indeed. It is not only the Polish mark but the Polish honour and good name, which have

depreciated. Nor is the Polish record clear in any international relation. Even if we set aside the lawless raids of Korfanty and Zeligowski, towards which the Government was so gentle, there is plenty more to criticise. How can she be said to support the principles of the League when she refuses to ratify Treaties? Poland did not ratify the Austrian Treaty until long after it had come into force, she has not ratified either Bulgarian or Hungarian Treaties, she has refused to sign the Central European Frontiers' Treaty, and apparently claims East Galicia and Lithuania in defiance of the Supreme Council and the League. Some of these misdeeds might be pardoned but the general drift seems clear. No country has so bad a record as to fulfilling her international agreements and, if she was a suppliant for admission to the League as Lithuania was, such record would be fatal to her claim. Much of this was exposed to the world with telling force during the Lithuanian dispute, and rebukes like those, which Mr. Balfour or Lord Robert Cecil addressed to her, can seldom have been heard in diplomatic circles. What was more striking is that no voice was raised to defend her in the Assembly and for the first time the Polish action became the occasion for unfavourable criticism throughout the Press. If the League has not the power to compel a state to right its bad deeds, it has at least the power to force it to defend itself. After hearing them, the general opinion was that Poland's motives

"may have been exemplary, but that they are always in need of explanation." Such a feeling is fatal to the reputation of a high-minded, chivalrous state, but it depends on Poland, and on Poland alone, to convince the world that she still deserves her old title. The League applied to her an "acid test" in the matter of Lithuania, and so far it has yielded no results favourable to Poland.

VII

THE UPPER SILESIAN AWARD [1]

THE reference of the question of Upper Silesia to the League was at once its greatest opportunity and its greatest danger. To refuse to give a recommendation would have been fatal, but great perils also lurked in any decision to award that the League had to make.

This is not the place to deal with the Silesian question as a whole, upon which volumes might be, and indeed have been, written. But to understand the problem a few brief introductory remarks must be given:

(*a*) Historical and Economic

The history of Upper Silesia offers little enough to help any solution of present problems. The inhabitants are predominantly Polish, but the tongue which they speak is a dialect not readily intelligible to the Poles of Poland proper.[2] The

[1] *Vide* an article by Lord Robert Cecil, "The Question of Upper Silesia," *Nineteenth Century*, December, 1921.

[2] Upper Silesia German census of 1910: 1,245,000 Poles, 672,000 Germans *v.* Germany. "Observations on Peace and Allied Reply," quoted in *Hist. Peace Conference*, ii. 287-8.

Poles have not actually ruled in Upper Silesia for something like seven centuries and a half. This area has, therefore, been subject to the influence of German culture and pressure and German economic penetration for centuries. It is only within comparatively recent times that there has developed a strong Nationalist Polish movement in Upper Silesia. In a visit I paid to it some years before the war the feeling shown was very different from the bitterly anti-German attitude of Posen. The Poles of Upper Silesia had been fairly caught in the net of German industrial organisation, and had only begun to escape from it just before the war broke out.

(*b*) The Plebiscite, March 20, 1921

The supreme value of Upper Silesia consists, of course, in its enormous economic and mineral wealth. It contains about a quarter of the coal, a good deal of iron, and much of the zinc ore of Germany. It is an industrial asset of enormous value. At the Peace Conference the Germans, in their Observations on the Draft Treaty, referred over and over again to Upper Silesia. Their chief argument was "only with Upper Silesia can Germany pay reparation, but without it never." In order to induce the Germans to sign, Mr. Lloyd George hit on the ingenious expedient of a plebiscite in Upper Silesia, as well as in Allenstein and in Marienwerder. The Germans were much

influenced by this, and signed the Treaty of Versailles in the confident hope that any plebiscite must result in a smashing German victory. They were right as to Allenstein and Marienwerder, they were wrong as to Upper Silesia. The first two plebiscites gave enormous majorities in favour of Germany, but in the Silesian one the issue was more doubtful. Germany indeed won a victory, and acquired seven-elevenths of the votes to four-elevenths polled by the Poles.[1] This, in itself, was significant, for the majority were ethnically Poles, so that a large number of racial Poles must have voted for remaining with Germany. But, unfortunately, there was no clear division between the voters. The voting had been by communes, and Polish communes were as inextricably mixed up with German as shot silk colours or macedoine of fruit. German towns had Polish village communities hanging on their fringes and outskirts. No clean-cut division of the area could be arrived at which would not have the result of leaving large Polish minorities in German territory and *vice versa*. The Commissioners (French, British and Italian), who had the management of the plebiscite, found themselves unable to agree on the proposal of a future frontier in this area, and reported to this effect on April 30, 1921.

[1] Round figures, 717,000 for Germany, 488,000 for Poland, including over 100,000 out-voters, nearly all German.

(c) Korfanty and Lloyd George

Just at this moment, and as if to complicate the issue, Korfanty, a fanatical Polish Nationalist, led a kind of D'Annunzio raid from Polish soil into Upper Silesia. He was disavowed by the Polish Government, but his very numerous followers were well supplied with arms and equipment, and it is not easy to suppose that he could have continued without at least the covert support of many Polish officials. The French troops in the plebiscite area, who were traditionally friendly with the Poles, did not show enthusiasm for resisting them, and the French Press applauded their attitude. There were no British troops (probably because of the coal strike), though the Italians resisted sturdily. But, in any case, the plebiscite troops were not numerous enough to cope with Korfanty, and it looked as if lawless force might prevail. Orders were given in all haste for four British battalions to be sent to Upper Silesia, and Mr. Lloyd George not only made a vigorous speech in the Commons, but, on May 18, took the unusual step of issuing a statement to the Press in his *ipsissima verba*:

"The attitude taken by the British, American and Italian public on the Silesian question ought not to be offensive to France.

"They stand by the Treaty of Versailles. They mean to apply the terms of the Treaty justly, whether they happen to be for or against Germany.

"The fate of Upper Silesia must be decided by the Supreme Council and not by Korfanty.

"The children of the Treaty cannot be allowed to break crockery in Europe with impunity.

"Somebody must place a restraining hand on them, otherwise there will be continual warfare.

". . . The British Government were anxious to have the division of Silesia settled at the London Conference. All the facts of the plebiscite were known.

"However, our Allies were not ready to proceed with the discussion.

"We will abide faithfully by the decision given by a majority of the Powers who have a voice under the Treaty in defining the Silesian boundaries, whatever that verdict may be.

"We fully accept the plebiscite as an expression of the wishes of the people of Silesia; but, having gone into a great war and sustained gigantic losses in defence of an old Treaty to which this country was a party, Britain cannot consent to stand by whilst a Treaty her representatives signed less than two years ago is being trampled upon."[1]

(*d*) The French Attitude

The blunt, almost brutal, frankness of Lloyd George's statement called attention both to Korfanty's raid and to the French attitude. That statement of itself discounted the effect of the

Korfanty raid, but the French attitude remained as a stumbling-block in the path of agreement. The attitude of the French Press was of singular interest, whether it was the effect or (as is more probable) the cause of French Government policy. It might be condensed into some such utterance as this: "We French did not wish to grant you Anglo-Saxons a plebiscite in Upper Silesia. That province was, we conceive, predominantly Polish, and should have been annexed by her outright. But as Lloyd George and Wilson insisted we consented on one condition. That condition was that Great Britain and the United States should sign a treaty guaranteeing us against unprovoked aggression from Germany. The United States refused to ratify that treaty, and Great Britain, whose engagement was dependent on the co-operation of America, now declares the whole bargain is off. Therefore we have now no guarantee and no security against Germany. The only security we have is to deprive her of the coal, iron and zinc of Upper Silesia, which will otherwise be the raw material of her future munitions." To this in effect Great Britain replied: "We quite agree that the guarantee treaty is off. This is due to no fault of ours. But that guarantee treaty was not made known to the Germans at the time and was not a condition to which they were asked to agree. It is unjust that the Germans should suffer because the United States has repudiated the guarantee treaty. Upper Silesia

can only be divided according to the terms of the Versailles Treaty."

(*e*) The Supreme Council (July-August 12)

All the elements of a serious dispute being now present, the Plebiscite Commissioners were invited by the Allied Governments to put forward a common proposal. As they were still unable to agree, the Supreme Council was summoned to consider the question on August 8. A Committee of experts was summoned ten days before to try and find a way out. On one point this Committee did reach agreement, and the fact is important. They agreed that the intention of the Treaty had not been to hand over the whole area to one party or to the other, but to draw a frontier-line on the basis of the voting as shown by the communes, allotting to each party what was ethnically its due. Though therefore they agreed that the area ought to be divided, in one proportion or another, they wholly failed to agree as to what that frontier-line should be.

There were three or four proposed lines, but the real principle at stake was what was known as the "indivisibility of the industrial triangle." This argument was developed with great force and ability by Sir Cecil Hurst, the British Legal Adviser, at the session of August 7.[1] He laid

[1] *Vide* French Press *ad hoc*.

down three principles: (*a*) Partition should be based on the vote by communes; (*b*) Islands or enclaves should be avoided even if minorities suffered thereby; (*c*) Communes, which were economically inseparable, ought not to be divided. The industrial triangle, which had the three important towns of Beuthen, Gleiwitz and Kattowitz at its three angles, ought not to be divided. Its heart was German, and it should be given to Germany. This would mean giving not 30 per cent. of the total of those who had voted for Poland to Poland, yet as 21 per cent. of Polish voters were in the industrial triangle, this sacrifice was inevitable. M. Laroche, the French expert, contended that the theory was new, and should, in strict logic, be carried further. Pless and Rybnik, towns south of the triangle, were indisputably Polish, but they might fairly be considered inseparable from the triangle. Yet, if these were given to Germany, the total Polish voters in the triangle would exceed the German. He therefore strongly advocated the French proposal, which gave 88 per cent. of the Poles to Poland and 52 per cent. of the Germans to Germany.[1] The British attitude was supported by the Japanese and, with some hesitation, by the Italians; the American representative was merely an observer. But at the Supreme Council decisions must be

[1] By the French proposal of August 4 the whole of the industrial triangle would have gone to Poland.

unanimous, and France stood firm. A few minor concessions were made by Lloyd George; there were invitations to breakfast and to dinner and to private interviews. But in essentials both sides stood to their guns. On the 12th the breach was evidently too wide to be passed. M. Briand visited Lloyd George at the Hôtel Crillon and informed him of his inability to give way. The conversation is then reported thus:[1]

LLOYD GEORGE: "But that is a rupture?"

BRIAND: "I hope not. No one wishes it less than I. If you have said your last word we must seek a means of avoiding it."

LLOYD GEORGE: "Then refer the matter to the Council of the League. I see no other means."

BRIAND: "We have also thought of it, and I am ready to propose it, if agreement can really be reached on this basis."

LLOYD GEORGE: "The Italians have also decided on it. If you summon the Supreme Council we can finish with Upper Silesia before my departure, which is fixed for to-day."

This is true in substance if not verbally. For at the meeting, which followed immediately, all the Four Allies pledged themselves to accept without reserve the decision of the League.[2]

[1] *E.g.*, in French Press of August 13.

[2] Col. Harvey, the American representative, dissociated himself from the proceedings as his Government was not a member of the League.

(*f*) The League's Proceedings

The Great Allied Powers had differed greatly and more seriously than since the war began. Feelings had risen to a height when they seriously threatened to dissolve the Alliance. The reference of the question to the League provided a period for the cooling of passions and for the subsidence of acute feelings. The one stable fact, amid so much that was disturbing and alarming, was that the interested Powers pledged themselves unreservedly to accept the award. The decision of the Supreme Council was as follows: "The Supreme Council, before deciding on the fixing of the frontier between Germany and Poland in Upper Silesia in conformity with Articles 87-88 of the Treaty of Versailles, decides by application of Article 11, paragraph 2, of the Covenant of the League of Nations to submit to the Council of the League the difficulties the fixing of this frontier present, and to ask it to make known its recommendation as to the line the Principal Allies and Associated Powers should lay down." Here there is nothing definite, but in his letter to the Acting President of the League of August 24, M. Briand wrote: "Each of the Governments represented having in the course of the discussion solemnly undertaken to accept the solution recommended by the Council of the League." Technically, therefore, the Supreme Council made the decision, and the League Council was asked

merely to give a recommendation. In practice the League Council was, however, to make the decision.

(*g*) The Decision of the Council of the League

Viscount Ishii, the Acting President of the Council of the League, answered M. Briand's letter of August 12 on the 19th, and convened the Council for the 29th. In his report on that date Viscount Ishii suggested that the League's advice was asked "without reserve and without restriction." He pointed out that Article 11, par. 2, of the Covenant ran as follows: "It is declared to be the friendly right of each member of the League to bring to the attention of the Assembly or of the Council any circumstances whatever affecting international relations which threaten to disturb international peace or the good understanding between nations upon which peace depends." The right of the League to make "a recommendation" by request of one or more of its members was clearly implied in the Covenant. Clearly also the power to decide on the frontier lay with the Principal Allied and Associated Powers under Articles 87-88 of the Treaty of Versailles,[1] but the League could

[1] Art. 87: "The boundaries of Poland not laid down in the present Treaty will be subsequently determined by the Principal Allied and Associated Powers."

Art. 88: Referring to the plebiscite: "Germany hereby renounces in favour of Poland all rights and titles over the portion of Upper Silesia lying beyond the frontier-line fixed by the P.A. and A.P. as a result of the plebiscite."

recommend and its recommendation would be accepted.

Entering into questions of principle, Viscount Ishii laid it down as incontestable that the authors of the Treaty had not intended to cede the plebiscite area *en bloc* to one party or another, but had desired the "determination of a frontier, no particular line being either prescribed or excluded in advance." Another great guiding principle was that expressed in Annex 5 to Article 88 of the Treaty, instructing the Commissioners to recommend, after the plebiscite, "the line which ought to be adopted as the frontier of Germany in Upper Silesia. In this recommendation regard will be paid to the wishes of the inhabitants as shown by the vote, and to the geographical and economic conditions of the locality." On this sentence and its interpretation depended the whole decision.

The Council at once accepted the task and drafted a public communiqué to the effect that their task "was not a question of Polono-German conflict or of arbitration between disputants; it is a question of formulating the recommendation to the Supreme Council at its request regarding the application of one of the clauses of the Treaty of Versailles." It is worth noting that Viscount Ishii continued to preside over the sessions of the Council dealing with Upper Silesia. On September 1 the Council decided that the preliminary examination of the question should be

entrusted to the four members of the Council who had previously taken no part and had had no bias in the question. These were Da Cunha (Brazil), Wellington Koo (China), Quinones de Leon (Spain), and Hymans (Belgium). The last accepted the task on behalf of his colleagues "in a spirit of perfect justice, of perfect freedom, and of perfect independence." All sorts of evidence and all sorts of witnesses came before these investigators. The official representatives of Poland and Germany were not summoned, but delegations of miners, industrial employers and partisans of both nationalities were summoned and heard by the Four.

The decision was made known to the President of the Supreme Council on October 12, and to the general public on the 24th.[1] In their interpretation the League Council held (and probably rightly) that the solution of the problem, in conformity with the expressed vote of the inhabitants of the plebiscite area, was the first and most important consideration. The frontier-line recommended by the League shewed that nationality was judged superior to coal, to transport, and to geographical convenience. On the whole, it is true to say that the League line sinned less against nationality than either the British or the French lines. In the second place, the League decided to

[1] It was unfortunate that, by what appears to have been an accident, the actual details were in substance those given to the Press on the 12th.—*Vide Times*, Oct. 13.

divide the industrial triangle. They lopped off one big angle—consisting of the two almost exclusively German towns of Königs-hütte and Kattowitz—and gave it to Poland; Beuthen and Gleiwitz, the other two angles, remained to Germany. The League recognised, however, that these two solutions of the national and economic questions "must inevitably result in leaving relatively large minorities on both sides of the line and in separating important interests." According to German figures, Poland will obtain 85 per cent. of the coal-mines, 67 per cent. of iron furnaces, all lead and zinc pits, all zinc works and all zinc-plate rolling works.

So far, then, the League had propounded a solution more just in the abstract as to nationality and more difficult in the concrete as to economics than any other yet proposed. The success of their recommendation depended on its being shewn to be really workable. The League are said to have been influenced in their decision to divide the industrial area by the evidence and opinions of Dr. Beuesh, the celebrated Foreign Minister of Czecho-Slovakia, who was present for a few days in Geneva. He pointed out that, in the Teschen area, Czech and Pole had divided a great industrial district under circumstances of peculiar delicacy. This division had not been fatal to the industry of the area; on the contrary, it had produced a working *modus vivendi* between the two nationalities. The League appear to

have taken the hint and attempted to improve upon the model. They hit on an original plan. Upper Silesia was to be divided politically and economically, but, while the political frontier was to be drawn at once, the economic unity of the whole area was to be prolonged for fifteen years. The scheme was evidently suggested by Article 90 of the Treaty, which provides that for a period of fifteen years, dating from the allocation of the frontier, Poland shall permit the export to Germany of the products of the mines in the Polish zone of the plebiscite area. The railways, of which most are German State ones, are to be jointly operated, and those of the Schlesische Klein-Bahn Aktien-gesellschaft are to be operated as a single unit, in each case for fifteen years. Railway rates are to be uniform and there is to be a single accounts office for the whole system. Special agreements are to maintain the existing water-supply system for the same period, and special provisions for three years are to be made as to the supply of electric power. For fifteen years the German mark is to be legal currency, and postal, telegraph and telephone charges fixed accordingly. Even the Customs Régimes of the two states are to be seriously modified.[1] They are not to come into force for six months and,

[1] In accordance with Art. 268 of the Treaty, natural or manufactured products coming from the Polish zone shall, on importation into the German customs area, be free of all customs duty for three years.

when they do, for fifteen years very special arrangements are made to relieve from duty the national products produced in one zone of the area and destined to be used or consumed in the other. The same freedom from duty applies to raw, half-manufactured and unfinished products made in one zone and destined to be finished in the other zone, and "intended for importation into the country of origin." Similarly, with regard to export regulations, for fifteen years both parties undertake to facilitate the export from their respective territories of such products as are indispensable for the industry of either zone of the plebiscite area, by supplying the necessary export licences and by authorising the execution of contracts entered into by private individuals.

The arrangement as regards coal, according to Article 90 of the Treaty, has already been indicated. There are some highly significant provisions of a more general character indicating that there will be economic unity of the area for half a generation. Thus both national Governments recognise for fifteen years the existing unions of employers and workmen, which are allowed to enter into collective contracts throughout the whole area. Again, local benefit societies, whether in the Polish zone or the whole area, will be maintained for fifteen years unless both Governments concerned agree to divide them. Free movement as between the zones is guaranteed to any

inhabitant regularly domiciled in the plebiscite area. Poland renounces powers given her under Articles 92 and 297 as regards no expropriation of industrial undertakings, mines or deposits, save where, in the opinion of the Mixed Commission, such powers are necessary to ensure continued co-operation. If disputes occur between Polish or German Governments as to any legislative measure, passed by either country as affecting the area, either Government may appeal to the Council of the League, whose decision both Governments undertake to accept. Certain other important arrangements for the protection of minorities are discussed elsewhere.[1] But an important provision arranged for two bodies to carry out all these provisions—an Arbitral Tribunal, entrusted with the duty of settling private disputes arising under the operation of the various arrangements laid down. This was to consist of a Polish and a German arbitrator, with a president appointed by the Council of the League. There was also to be an Upper Silesia mixed commission consisting of two Poles and two Germans from Upper Silesia, and a president of another nationality appointed by the League. This body was to superintend the carrying out of all the above provisions, which were to be embodied in a Polish-German Convention.

[1] *Vide* Chapter V.

(*h*) Acceptance of the League's Decision (October 20)

The Four Allied Powers took a week before they accepted the recommendation, France having raised some objection in the interim. It was presented on the 12th and accepted on the 20th. A decision, verbally embodying that recommendation, was taken by the Council of Ambassadors at Paris and transmitted to Viscount Ishii the same day. With the obvious view of creating a *fait accompli*, immediate steps were taken by the Powers to bring the award into working practical action. A covering note warned Poland and Germany that the Supreme Council would execute the award in all its parts.

Outside diplomatic circles public feeling was less favourable. British opinion had supported Lloyd George in his professed intention of preventing Poland from "breaking the crockery" in Upper Silesia. It had also in the main supported him, though it imperfectly understood him, in his refusal to divide the "industrial triangle." The division of the triangle by the League award was thus, on the whole, a defeat for Great Britain. But British opinion had a profounder belief in the justice of the League than in the wisdom of her own statesmen, and, though brilliant and hostile critics shewed themselves in the Press, there was no serious popular feeling in favour of not accepting the award. The attitude of

France was less satisfactory. Her diplomats had raised some objections,[1] and her Press was not wholly favourable. Polish opinion was profoundly impressed and, on the whole, satisfied. The League frontier-line was far east of the Korfanty line and of the French frontier-line, but on the whole acceptable.

The attitude of Germany was, however, a graver matter. The mark began to fall as soon as the division was rumoured. Dr. Wirth resigned, the German Press resounded with wails and complaints. There can be no doubt of the genuineness of the feeling. If intensity is to overcome all other considerations the Germans deserve Upper Silesia. The whole of the Treaty negotiations prove this, and the venomous hatred of Poles by Germans is part of their earnest love for Upper Silesia. They regard it as a province won from barbarous Poles by the achievements of German business organisation and by the influence of German "Kultur." Upper Silesia is to Germany what Alsace-Lorraine is to France. At the plebiscite few—very few—men of German speech or race voted for Poland, many—very many—Poles voted for Germany. It is characteristic of the curious artlessness of this race

[1] According to Art. 88 of the Treaty (Ann. 5) Allied troops had to withdraw one month after notifying the frontier to the two Governments concerned. This was clearly impracticable, but diplomacy got out of the difficulty by "communicating" the decision. "Notification" was reserved until such time as was convenient. Such is diplomatic resource!

that they believed to the last that Germany would receive all Upper Silesia. They did not see that the Treaty obligations, or the plebiscite result, made any difference. Upper Silesia, in German eyes and in German sentiment, was indivisible, therefore it was not to be divided. To divide it was cruelly to injure the susceptibilities of Germany for the sake of a number of Poles who would just as soon co-operate with Germany, and who had been intimidated by Korfanty or by the French. That this was the almost universal German view is shown by the speech of Dr. Wirth in announcing the remarks of his Cabinet, and, in effect, his resolve to accept the award. He showed clearly that he believed the decision to have been due in fact not to the League but to the Supreme Council. His surprise and disappointment were genuine and evident, and this fact is the more significant because even the French admit him to be one of the most moderate and reasonable of men. Others were less restrained than he, and when the President of the Assembly, Herr Loebe, addressed a kind of mournful farewell to the faithful Germans handed over to Poland, the air was heavy with sentiment. Even making large deductions for worked-up feelings, there can be no doubt of the terrible humiliation the average German must feel over the League's decision.

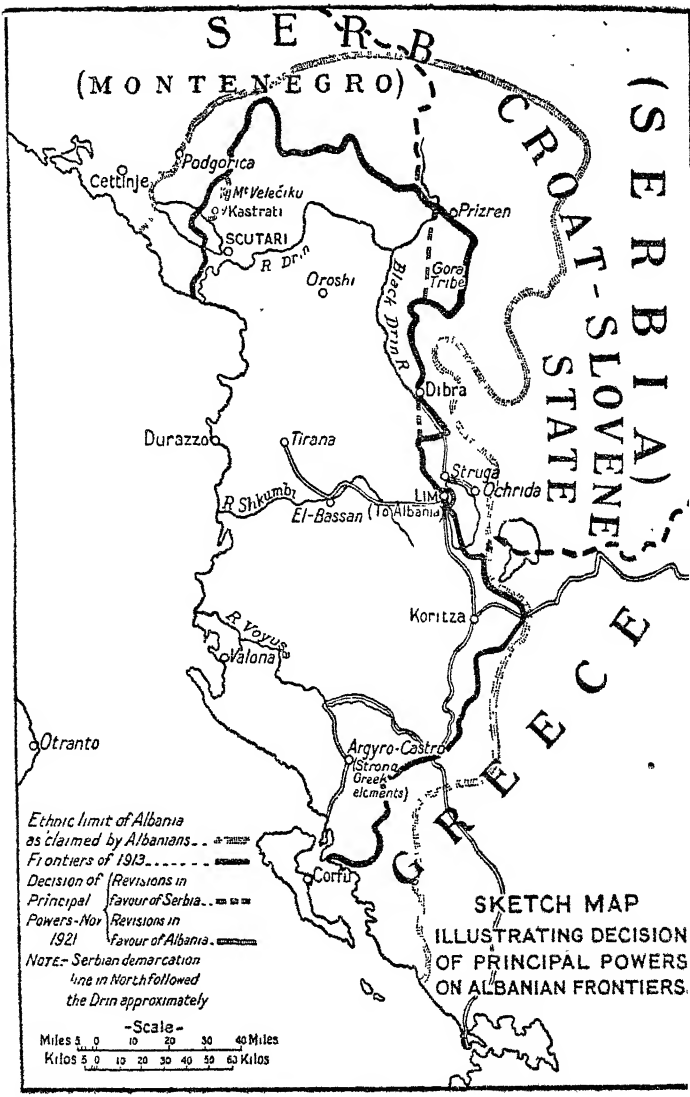
The actual difficulties of a practical kind are not really as grave as this sentimental one. Business men are not primarily influenced by sentiment,

and, once the decision is unavoidable, they will strive to get what they can out of it. The example of Danzig is encouraging. Few difficulties could be greater, few enmities more bitter, than those which have been faced and settled there. The same is true in the case of Teschen. In both cases two bitterly hostile and alien populations have finally been united by economic bonds. The Danzig case offers an analogy in that the single neutral head—the High Commissioner—has proved the reconciler of difficulties as we may hope the single neutral President of the Upper Silesia Commission will do. The Teschen analogy carries us even further, for it shows us that, even when two alien nationalities inhabit an industrial area, divided between them politically, they find it on the whole advantageous to co-operate economically, and are beginning to do so. In the Silesian case Poles and Germans must co-operate economically for fifteen years and, after that period, it may be hoped that they will have learnt the habit of doing so.

The sentimental and spiritual objection of Germany remains. It may be very serious, for it may prevent her from applying for admission to the League and the longer Germany remains outside the League the worse both for her and for the League. Yet it is well to look on the brighter side. The League was tried by a choice of dangers. To refuse to make an award was cowardly, to make it was perilous. But if the

League had not chosen the bolder course it would have earned general contempt. What it had actually achieved is already memorable. In a highly interesting article, published in the *Round Table*, and entitled "Diplomacy by Conference," Sir Maurice Hankey partly lifted the veil from the diplomatic processes by which the Allies were got to co-operate during the war and still more during the peace. He dwelt on diplomatic conferences, and the virtues of certain methods for easing rusty wheels and turning dangerous corners. Yet all this masterly process of lubrication broke down before the Upper Silesian difficulty. No secretarial persuasion, no conference methods, no traditions of unity or agreement, no personal appeals, no attachments or friendships availed. The break between British and French policy over Upper Silesia was definite and fundamental on August 12, 1921. The whole machinery of agreement, carefully and painfully built up during half a dozen years of comradeship, collapsed. The Supreme Council had failed, and had failed lamentably. Yet where it failed the League Council succeeded. By interposing the elements of time and of impartial investigation the League Council worked out a decision which both France and Great Britain could accept with honour. This was not their only service. They did actually decide a question, whose continuance would have worked like a festering wound in the body politic of Europe. Any decision was better than no

decision, and this decision seems on the whole to have advantages that no other proposed settlement had; that is what, in this matter then, Europe owes to the League, and it is probably only the first of a series of such obligations.


SERB
(MONTENEGRO)
CROAT-SLOVENE STATE
(SERBIA)
GREECE
Podgorica
Cettinje
Mt Velečiku
Kastrati
SCUTARI
R Drin
Oroshi
Prizren
Gora Tribe
Black Drin R
Dibra
Durazzo
Tirana
Struga
Ochrida
R Shkumbi
El-Bassan
(To Albania)
LIM
Koritza
R Voyusa
Valona
Otranto
Argyro-Castro
(Strong Greek elements)
Corfu
Ethnic limit of Albania as claimed by Albanians
Frontiers of 1913
Decision of Principal Powers-Nov 1921
Revisions in favour of Serbia
Revisions in favour of Albania
Note:- Serbian demarcation line in North followed the Drin approximately
-Scale-
Miles 5 0 10 20 30 40 Miles
Kilos 5 0 10 20 30 40 50 60 Kilos
SKETCH MAP
ILLUSTRATING DECISION
OF PRINCIPAL POWERS
ON ALBANIAN FRONTIERS.

VIII

THE SETTLEMENT OF THE ALBANIAN QUESTION

(*a*) Albania's Admission to the League (December 17, 1920)

No subject proved more difficult to settle at the Second Assembly than that of Albania, and yet none was more dear to the heart of the League. For it was the League which had given birth to Albania. In December, 1920, the Committee on the Admission of New States reported against the admission of Albania, partly owing to the legal opinion of the Secretariat, partly owing to the opposition of Mr. Fisher, the British representative, and to the impassioned resistance of various small states like the Greeks and the Serb-Croat-Slovenes. Lord Robert Cecil, however, bestirred himself in the Assembly, and it soon became evident that the two-thirds majority required for the admission of Albania would be forthcoming. Not only the delegates of the smaller states, but the British representative therefore hastened to withdraw their opposition, and on December 17,

1920. Albania was admitted into the League of Nations.

From this act flowed very many results, though different from what might have been supposed. Albania was evidently admitted as an independent and sovereign state (as the Italian representative himself declared), not as a self-governing dominion or colony. Hence all the arrangements made during and after the war were profoundly altered by this decision, and the Assembly of the League had decided against certain important proposals of the Great Powers embodied in various treaties and obligations, of which all were originally secret, but which in fact all saw the light almost immediately after their being concluded.

These obligations were, first and foremost, the famous first Treaty of London, May 30, 1913, which entrusted to the Great Powers (including Austria-Hungary and Germany) the task of defining the frontiers and future status of Albania, and withdrew it altogether from Ottoman sovereignty. In pursuance of this policy a state was formed and declared independent (July 29, 1913). In practice, and even in theory, however, its independence was considerably limited by the arrangements of the Six Powers. Eventually a German prince, William of Wied (who certainly would not have been the choice of the natives), was appointed ruler or Mpret, assisted by an international (Dutch) gendarmerie and an International Commission of Financial Control. The

boundaries were also fixed in the main, and two Boundary Commissions (North and South) were sent out to delimit them. The Southern Commission eventually reported in December, 1913, and made the important decision of giving the professedly Greek areas of Argyrocastro and Koritza to Albania. The war broke out before the Northern Commission were able to agree, but the general lines of the Northern Boundary were known. The war naturally dissolved all existing international agreements, and among them those of the Six Powers relating to Albania. They were never formally renewed in the treaties made at the conclusion of the war.

(*b*) Albania's Claim to the Frontiers of 1913

The Albanian contention was that the frontiers and independence of Albania remained intact after the war. This is a difficult contention, for the only legal Albanian Government was that of Prince Wied, who abandoned the country to anarchy in September, 1914. After that, such order as was kept was maintained by Allied or enemy troops. Towards the end of 1918, and more definitely in 1919, an Albanian national Government organised itself, and was given a collective recognition by the Powers on its admission to the League in December, 1920. It seems, however, very difficult for their self-constituted Government to contend that, previous to December, 1920, they

had any international status based on the decisions of 1913. They admitted that the international statute creating the German prince, the Dutch gendarmerie and the International Financial Commission was no longer in force. Yet they maintained that, though they were a self-constituted Government they were entitled to all the powers which these previous organs had enjoyed. In spite, therefore, of being emancipated from all international control under the arrangements of 1913, which happened to be inconvenient, the self-constituted Albanian Government maintained the international decisions as to the frontiers of Albania in 1913, because in point of fact these happened to be convenient. There would seem to be a point at which fact must intrude itself into the theories of international law. No one could seriously contend that any Government had existed in Albania during the war. The old internationally-controlled system had burst like a bubble; no new one had taken its place until the provisional Government of Albania was collectively recognised by her admission to the League.

(*c*) The Contention of the Principal Powers with respect to Albania

The Principal Allied and Associated Powers advanced the contention that Albania, as constituted in 1913, no longer existed in 1920, either in status or in frontiers. The war had dissolved all

obligations and all international treaties as between the belligerents, and the first Treaty of London (that of 1913) had lapsed, because it was not specifically renewed in the post-war treaties. Germany's consent, which would have been necessary under that Treaty to a modification of its terms, was nowhere asked by the Powers. In fact, their hands were tied. The second and more famous Treaty of London (April 26, 1915) between Great Britain, France, Russia and Italy agreed under certain contingencies to cede Valona in full sovereignty to Italy, to allow Greece to annex Argyrocastro and part of South Albania, and Montenegro and Serbia to obtain the Northern areas. Italy was also to have the diplomatic control over a small Mohammedan state in the centre of Albania based on Tirana. This arrangement was only a project. It was, however, in principle supported by the fact that the British and French Territorial Commissioners at the Peace Conference reported in favour of giving Argyrocastro and Koritza to Greece, and the United States supported her claims to Argyrocastro. Subsequently the Italian Government made a secret treaty with Greece on the same lines. Finally, in January, 1920, the Supreme Council proposed to give Scutari and the Drin Valley as an autonomous province to the Serbs, and the Argyrocastro and Koritza to Greece. Italy was to have the mandate for all the Albania that remained. This arrangement collapsed because President

Wilson, waking suddenly from his long illness and silence, furiously denounced this bargain as partitioning Albania against her vehement protests. Great Britain and France promptly announced their willingness to consider the whole question anew (February 26, 1920). Italy, whose troops were in occupation of Albania, gave as yet no answer.

The situation was, however, very soon changed by the Albanians themselves. The provisional Government shewed great energy. When French troops finally evacuated Koritza in May, 1920, Albanians occupied the whole area. Albanian irregulars began fighting with Italians, and on June 20, Giollitti, the Italian Premier, announced Italy's intention of evacuating Albania. In reply to a question, he said, "I desire the integrity and independence of Albania," and declared he would return the Italian mandate for Albania, which he had, in fact, never formally received owing to Wilson's opposition. The Albanians had further successes against Italy, and finally turned her troops out of Valona itself. The Albanian provisional Government concluded an agreement with Italy at Tirana on August 2, 1920, which was secret. It has been stated, however, that it contains an acknowledgment by Italy of the integrity and independence of Albania, together with an admission of Italy's right to occupy Sasseno, an island commanding the Bay of Valona. As, however, Italy has not published this treaty for registration under the Covenant, it could not

be binding either on her or on Albania.[1] Still less could it be binding on her Allies. The net result of all this complicated jumble seems to be the following: All the secret agreements about Albania made during or since the war had become invalid for one reason or another. At the same time, the independence of Albania, as defined in 1913, had disappeared. On the other hand, the Allies claimed, and the Enemy States had acknowledged, the right of the Principal Allied and Associated Powers to redraw the frontiers if necessary. Germany was evidently considered as no longer concerned with the Balkans, but Austria and Hungary were forced to admit this. *E.g.*, "Austria hereby recognises and accepts the frontiers of Greece—the Serb-Croat-Slovene State, etc., as these frontiers may be determined by the principal Allied and Associated Powers."[2] Now as the frontiers of Greece and the Serb-Croat-Slovene State cannot be drawn without affecting those of Albania, it is clear that the drawing of the Albanian frontiers was hereby handed over to the Principal Allied Powers. This argument was twice used with great effect by Mr. Fisher. It receives support from another treaty, that respecting certain European frontiers (August 10, 1920), which provides (Art. 4) that the Serb-Croat-Slovene frontier "with Italy and the South will be determined

[1] *Vide* Art. 18, App. I.

[2] Art. 89 of Austrian Treaty (St. Germain), Art. 74 of Hungary (Trianon), Art. 59 of Bulgaria (Neuilly).

later." Hence the case of the Great Powers was just this. Albania was created by Treaty of 1913, both as to status and frontiers. That Treaty had become abrogated by the war, and the Principal Allied Powers had therefore power to determine these states and these frontiers anew. Albania was a *tabula rasa*, a piece of white paper on which they could write what they wished. The admission of Albania to the League had, however, an important bearing on its status. For Italy had, at different times, claimed a protectorate, a mandate or a predominating influence over Albania. But at the moment of her admission to the League the Italian representative (M. Schanzer) thanked the Canadian one (Mr. Rowell) for reminding the Assembly of the declaration of the Italian Prime Minister to the effect that "Italy was prepared to recognise an independent and sovereign Albania" (*League of Nations Official Journal*, December 18, 1920). At the same time, as has already been indicated, the decision as to Albania's admission to the League was expressly taken without prejudice to the question of frontiers. On this point the impartial decision of the legal section of the League Secretariat must be considered as practically final. They reported that the legal position of Albania had been "affected" by the war, and this dictum applies specially to the frontiers which were not regarded as fixed. The situation stood thus in December, 1920, at the close of the First Assembly.

(*d*) Albania Between the First and Second Assembly

The situation of Albania between the First and Second Assembly of the League was pitiful. The First Assembly had forced the Great Powers to admit Albania into the general family of nations; it could not force each individual Great Power to recognise Albania. Albania was therefore in the position of a soul without a body. Or, rather, she was a sort of astral body among states. Theoretically she was a state, practically she had none of the advantages of being such. She had no diplomatic existence and no diplomatic representatives; she could not raise a loan or make her influence felt outside the sphere of the League. She had not even any frontiers. She led a miserable existence as a shabby-genteel relative neglected by her kinsmen of the great international family. Yet even in the midst of her humiliation Albania drew support from the League. If she could not appeal to the Supreme Council she could, and she did, appeal to the League.

The Albanians had long been in dispute with the Serbs in the North and East of Albania. The Serbs had advanced their lines well within the frontiers of 1913 and held practically the whole valley of the Drin in north and east of Albania. According to the Serbs this occupation was defined by a demarcation-line originally approved by General Franchet d'Esperey as Commander-in-Chief

of the Armée d'Orient. In their view, the line had some military, but no political, importance, and their occupation was temporary and international in character, pending the permanent settlement of the frontiers. The Albanian Government, for its own reasons, could not accept this view. The fetich of "the frontiers of 1913" had been set up and all Albanians had to bow down to it. Incidentally they had serious counts against the Serbs. They declared that much had been done behind the lines of demarcation: whole areas devastated, 40,000 inhabitants driven to seek refuge in Albania, 150 villages destroyed, women and men slaughtered, with all the sad attendant circumstances of Balkan atrocities. All of this was probably not true, some of it certainly was. Consequently Albania appealed to the Council of the League to settle her disputes with her neighbours by arbitration, and asked the League to admit that her frontiers were those of 1913. The appeal to the League was first made in May, 1921, and it had a very marked effect on the Great Powers. From their point of view they could hardly allow the League to discuss the frontiers of Albania and perhaps to offer suggestions as to their settlement. Consequently France, Great Britain, Italy and Japan referred the decision on the new frontiers of Albania to the Conference of Ambassadors, and a Boundary Commission composed of representatives of these Powers was already sitting at Paris under the ægis of the Council of Ambassadors when

Albania's appeal came before the Council of the League (June, 1921).

(*e*) The Council (June 25, 1921)

Before the Council of the League on June 25, 1921, the Albanian Bishop, Fan Noli, marshalled his list of lurid atrocities and demanded the frontiers of 1913. The Serbs replied by denying the one and, strangely enough, by conceding the other. They stated that they adhered to their declaration made at the Peace Conference, which, to cut it short, was that Serbia would support the frontiers of 1913 for Albania, provided that the Great Powers did not "acknowledge the right of occupation or protectorate possessed by a foreign state." (The Serbs meant by this to exclude Italy's influence from Albania.) The Serb representative was supported by Frangulis, the eloquent Greek representative. Both, though for different reasons, denied the existence of the frontiers of 1913, and denied the competence of the League, as against the Principal Powers, to settle the new frontiers of Albania. Mr. Fisher took a somewhat similar line. "In admitting Albania to the League. the Assembly had expressly realised that its frontiers had not been definitely fixed. It had been generally agreed that she had been admitted without prejudice to the frontier question." As the Council of Ambassadors was already sitting, he said that he did not propose to contest their "competence." He then solemnly

and earnestly adjured the three interested parties —Greece, Albania, and the Serb-Croat-Slovene State—to abstain from hostilities and provocative acts until the decision as to frontiers was made. A resolution to the effect that the Council of the League considered it "inadvisable" to take up the frontier question simultaneously with the Ambassadors Council, that the three interested parties should abstain from hostilities, and that "a Conference of Ambassadors should take a decision with the least possible delay," was then carried on the same day. The Greek and Serb-Croat-Slovene representatives consented to this resolution, for that resolution meant that the frontiers of 1913 could be altered as they were not in fact in existence. The Albanian representative protested and turned the tables on the League Council. The League Council had practically declared itself incompetent to deal with the matter of frontiers, so the Albanian Bishop resolved to appeal against this decision of the Council to the Second Assembly of the League, and announced his intention in a speech of dignified protest.

(*f*) The Albanian Frontiers Commission at Paris (June-July, 1921)

Thus in mid-June the situation was that the Great Powers had decided to settle the frontiers of Albania for themselves, without being bound by the decision of 1913. They had appointed a

Commission for the purpose, which was instructed to report to the Conference of Ambassadors. But, as is not unusual in such cases, the Frontiers Commission made slow progress. The urgency of decision recommended by the Council of the League was less evident to the Council of Ambassadors. There were clearly serious and important differences between the Great Powers. Very confident statements were made in the Press, but in fact no authoritative communiqué was ever issued to them. Greek, Serb-Croat-Slovene and Albanian representatives were summoned to give evidence, but these Powers were not invited to take part in the decision. A study of the French and Italian semi-official Press during these months reveals important tendencies. The French Press was practically unanimous in refusing to admit that any alterations from the frontiers of 1913 should be made in favour of Greece. The Italian Press heartily endorsed this standpoint, but went much further. Not only did it entirely refuse concessions to Greece, but it asserted that no alteration whatever should or could be made in these frontiers of 1913. At the same time, with absurd inconsistency, the Italian Press demanded that the island of Sasseno should belong to Italy. This demand was ludicrous, because the Italian representative at the original decisions of 1913 had demanded that Sasseno should be included in Albania. Now, apparently, Albania was to have the frontiers of 1913. No one was allowed to infringe them. But

Italy was to be an exception to this rule and to have Sasseno. It might be thought that absurdity could no further go, but this proved to be an error. The Italian Press also contended that Albania was, in some sense, in subjection to Italy, for two inconsistent reasons. The first was that Albania had concluded with Italy a secret agreement at Tirana, which limited her sovereignty. This ignored the fact that secret treaties are not binding on members of the League and that Italy herself had stipulated for Albania's admission to the League as a sovereign and independent state. The second contention was that the Treaty of London was still in force, though Italy had herself abrogated its Albanian provisions by returning the mandate. The fact seemed to emerge therefore that Italy regretted that Giolitti had returned the mandate and abandoned her claims on Albania. It was a final inconsistency therefore that the Italian Press in the same breath demanded that Italy should retain some species of control over Albania, and yet that, at the same time, Albania should have the status and frontiers of 1913, and that Italy should violate these frontiers by retaining Sasseno. It would be wrong to attribute all these ideas to the Italian Government, but they at least show Italy's interest in Albania. The Press is, of course, necessarily not always well informed in any country, yet, setting aside propaganda, it is a remarkable fact that, on the subject of the decisions of the Boundary Commission, certain Press organs in Great Britain,

Albania, France and Italy had, in some way or other, divined the truth. The decisions of that Commission as to the frontiers were not made final until the end of October or public until November; the actual recommendations were openly discussed in the Press in the middle of August. As no *démenti* was issued, the Press confidently (and, as it turned out, correctly) assumed that these were to be the decisions. It seems to be an illustration of the difficulties of "secret diplomacy" to-day. However closely the secret may be guarded, no "diplomacy" succeeds in being "secret" for very long. The Gilbertian situation therefore arose that, when the Second Assembly of the League began, everybody knew, or thought they knew, unofficially, that the frontiers of Albania had been settled. As a matter of fact they had not been, though proposals on the subject had been made.

(*g*) Albania before the Council and the Second Assembly (September-October, 1921)

On September 2 the Council sat on the Albanian question. The session was private, but the Press reported certain details. Mr. Balfour stated that Albania had already appealed to the Assembly against the June decision of the League Council not to interfere with the Council of Ambassadors, which was already discussing the question of Albania's frontiers. Albania had now also appealed to the Council in connection with Serbia's

occupations of territory in North Albania. As the Assembly would, in any case, have to deal with the first question, it had better deal with the second as well. This was finally agreed to, but a discordant note was raised by M. Jovanović—the Serb-Croat-Slovene representative. His speech was not published in full, but, to judge from the Press summaries, it followed closely on the lines of M. Spalaiković's address to the Assembly on September 10. M. Spalaiković contended that Albania had been "hastily admitted" into the League the year before, that there were now not one, but two Governments in Albania. Under the circumstances, therefore, Albania's claims were absurd, for she had neither fixed frontiers nor stable Government. Mr. Balfour, who followed him, suggested that Albania had been unanimously admitted to the League and that "that question should now be regarded as finally settled." It would have been well if the Serbs had taken his advice.

Meanwhile the Albanian questions had to go to Committee VI. (Political Affairs) before being discussed by the Assembly. On September 10 Mr. Fisher informed Lord Robert Cecil that he hoped the decision of the Ambassadors Conference on the Albanian frontiers would shortly be communicated to the League. On the 22nd he repeated this information. (In fact it was not made known till November 9, long after the Assembly had broken up.) On the 26th this Committee met in full public session and a remarkable scene took

place. Fan Noli—the able, black-bearded Albanian Bishop—began by restating the Albanian case, complaining bitterly of the Serb invasion and telling the Great Powers that none of them had recognised Albania. Mr. Fisher replied that, from the moment that Albania had been admitted into the League, Great Britain considered that her sovereignty and independence "lay beyond question." He declared, however, that the Serbs regarded their demarcation line as purely a military one and that the painful incidents reported were a necessary outcome of an unsettled situation. He hinted very strongly that he was not impressed by the nature of Balkan statistics, and concluded a speech of great eloquence by a moving appeal to Greeks, Albanians and Serbs to live together in amity. Spalaiković, the Serb representative, then intervened. He gave details to the effect that in the Mirdite country to the north of Albania a revolt against the Tirana Government had arisen. It was a revolt of Catholics against the Tirana Government, which was Mahommedan. Telegrams had been sent by Marca Djoni, the leader of this revolt, appealing to the Powers and demanding the right of the Mirdites to exercise self-determination. A curious dialogue then took place between him and the Albanian Bishop, Fan Noli. "Your Mirdite Republic consists of one man, who has sent this telegram from a Serbian town (Prizrend)." Spalaiković: "That is because it is the nearest telegraph office." Fan Noli: "But Marca Djoni

cannot read or write." Spalaikovič: "It is not for me to determine whether an Albanian is or is not illiterate." The public was present and shrieked with laughter at all this, but a more serious note was struck as Spalaikovič proceeded. He declared roundly that, in view of the two Governments, that of the Mirdite Republic and that of Tirana, he could not recognise the latter as the Government of Albania. He recognised the state but not the Government of Albania. He then proceeded to denunciations of Albanian conduct so violent that the second Albanian representative present, a Catholic from Scutari, twice tried to interrupt him. The second time the cold eye of the President of the Committee, Mr. Branting, and the warm admonitions of his episcopal colleagues, effectually quieted him, but his feelings showed the tensity of the situation. Finally, to the universal astonishment, the Serbian orator, who had run through every kind of emotion in his speech, concluded with a last and unexpected appeal. "Do not think," he said, turning to the Bishop, "that we hate you. No! No!" And with passionate gestures: "*Nous vous aimons*," (We love you). And he sat down amid a tempest of applause and laughter. This laughter was re-echoed later when the Bishop in reply said that while Albania returned his love, she preferred to be left to sleep in peace.

The Italian representative, Marquis Imperiali, then made a dignified speech, but the most important contribution came from Lord Robert Cecil.

He moved two resolutions. The first stated that, as the Powers were near agreement on the question of the frontiers, Albania should be recommended to accept their award and decision. The second stated that, in view of the serious allegations as to unrest, etc., the Council of the League should be requested to appoint a small Commission of Enquiry of three impartial persons to proceed to Albania and report fully on the execution of the decision of the Principal Allied and Associated Powers as soon as it is given, and on any decisions which may occur on or near the frontier of Albania! Bishop Noli's speech in reply to this showed his bitter disappointment, though he obviously appreciated the appointment of a Commission. This was an advantage. On the other hand, as Albania was recommended to accept the decision of the Paris Ambassadors on her frontiers, it was clear that she would not be able to claim the frontiers of 1913. For, as has already been shewn, the Powers approved the view that these frontiers were still legally in existence.

The resolutions of Lord Robert Cecil came up for decision by the Assembly on October 3. Lord Robert Cecil, however, took occasion to comment in severe terms on the delays of the Great Powers in settling the frontiers. He pointed out that, from "the date of the ratification of the Treaty of St. Germain (July 16, 1920), it became the function of what we now call the Conference of Ambassadors to deal with this frontier question. Nothing

whatever was done towards that end. Nothing was done during the rest of the year 1920, and nothing was done during the early part of the year 1921." He then hinted pretty strongly that the chief reason the Conference of Ambassadors took up the matter was the appeal of Albania to the League. He complained of the delay that was still taking place, though the Powers were reported as near agreement. "I hope and trust that it is so, because, if I may venture very respectfully to say so, even to such an august body as that, delays in this matter are really criminal to the peace of the world.

"You have no right to leave these questions undecided. They are the subject of violent agitation among the nations concerned, and each one necessarily—you cannot blame them for it—is engaged in stirring up such feelings as they can in favour of the solution they desire. As long as the matter is in dispute the agitators must go on and must increase. Agitations of that kind are only too likely to lead to a breach of the peace, slaughter of men—aye, and others beside men—devastation of the country, loss of wealth, and all the horrible evils which attend the outbreak of hostilities. We have no right to play with the lives and happiness of the people in order to serve the methods of the Old World diplomacy!"

Anyone who heard this speech, and saw the faces of some Old-World diplomats, would have realised the power of publicity and of the League.

No other notable speeches were made (though there were some Greek protestations) except that of Bishop Fan Noli, whose last effort before the Assembly fully maintained his reputation as an adroit, humorous, tactful and brief speaker. He drew the attention of the Assembly to the difficulty in which Albania was placed by the view of the Great Powers that it had no frontiers. "We have no frontiers and therefore there is no violation of frontiers. Consequently every one of our neighbours considers himself authorised to invade our territory. None, ladies and gentlemen, can blame us for resisting invasion. I do not see anyone here who believes in the Christian doctrine of non-resistance. We are in good company here, and in spite of the fact that our presence here is so unpleasant to our neighbours, we shall continue to sit here." (Applause.) Again, with reference to the Commission he made a telling point. "All I have to say is this . . . if that Commission is sent, everybody will know there is less fanaticism inside than outside Albania; that our Government can compare with any other Government in the Balkan peninsula!"

Lord Robert's resolutions were carried unanimously by the Assembly and brought up before the Council for confirmation on October 6. Italy showed some opposition, but Mr. Balfour pointed out that the Council could hardly go against the declared will of the Assembly in this matter.[1] The Council

[1] *Morning Post*, October 10; *Times*, October 7.

finally approved the two resolutions which ran as follows:

(1) "The Assembly, taking note of the fact that the Serbo-Croat-Slovene State and Greece have recognised the Council of the Principal Allied and Associated Powers as the appropriate body to settle the frontiers of Albania, understanding that that Council is very near an agreement on the questions submitted to it, and recogonising the sovereignty and independence of Albania as established by her admission to the League, recommends Albania now to accept the forthcoming decision of the Conference.

(2) "The Assembly (in view of the present unrest on the frontier) requests the Council forthwith to appoint a small Commission of three impartial persons to proceed immediately to Albania and report fully on the execution of the decision of the Conference as soon as given, and on any disturbances which may occur on or near the frontier of Albania. The Commission should have power to appoint observers or other officials, being impartial persons, to enable it to discharge its functions."

They added the rider that "the Commission should

arrive in Albania by November 1, 1921, but that it should take no action until the decision of the Principal Allied and Associated Powers is given."

It is worth while to pause and point out here the exact stage which negotiations had now reached. It appeared that the League had been defeated. It had not been allowed to decide the frontiers and the Assembly had failed by its moral pressure to force the Great Powers to "speed up" their decision. But this is really a superficial view. The Great Powers were affected by the pressure of the Assembly and forced to promise that they would quickly announce their decision. Not only that, but they were forced to consent to the despatch of a Commission, and this Commission was composed of neutral members, not of any representatives of the Great Powers. It is true that, at this stage, the Commission had no executive powers. It was a Commission of eyes and tongues, not of hands. But in the dark places of the Balkans eyes and tongues have a remarkable power. In the presence or neighbourhood of impartial observers atrocities wither and die.

Lord Robert Cecil, in moving for this Commission, displayed a profound knowledge of Balkan psychology; its despatch would notably have caused the Great Powers to hasten their decision.[1] In

[1] A personal experience may confirm the truth of the importance of the presence of observers in the Balkans. In 1910 I witnessed at Ochrida, together with the Bulgarian Exarch, the burning of the house of a man who refused to pay taxes by the Young Turkish gendarmerie. Subsequently I found

fact, however, dramatic developments took place which produced an entirely different dénouement within six weeks.

(*h*) The Dénouement (October-November)

The absurdities of the Mirdite Republic and of the Serb-Croat-Slovene claim that there was no recognised Government in Albania had induced the League somewhat to discount the Albanian charges that the Serb troops were advancing beyond the demarcation line. After the first week of October, as the League Assembly dispersed, signs became evident that serious disturbance was taking place in areas close to the demarcation line which had previously been in the Albanian zone. It was clear that brigands and comitadjis were advancing; according to the Serbs they were the Mirdite rebels, but it was never explained how these could be provided with artillery and aeroplanes. Moreover, the Serb-Croat-Slovene Government did not themselves deny that their troops on the demarcation line were being reinforced, and the Belgrade Press

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that the Bulgarian Exarch had communicated to the newspapers the fact that I had witnessed (and photographed) this act of official arson. Much amazed, I sought an explanation.

MOI: "Why did you insert this without my leave?"

EXARCH: "Because I did not know if you would grant permission."

MOI: "What is the point of doing so?"

EXARCH: "If I alone complain or report the matter I shall be considered a liar or an interested party." (The taxpayer was a Slav.) "If I can point to the fact that the arson was witnessed by an impartial observer, the fact cannot be denied, and you have an international incident at once."

was extraordinarily violent and provocative. The situation, from being irritating and a nuisance, had at the beginning of November at last become definitely alarming and a danger. Under this pressure the Principal Powers finally acted, decided upon the frontiers, and at last gave full diplomatic recognition to the Albanian Government. Evidently events moved fast, for so late as October 8 the Marquis della Torretta, the Italian Foreign Minister, declared that "it was the intention of Italy to secure for Albania the boundaries of 1913."

At the end of October the Serb troops (?) occupied Oroshi—the capital of the Mirdite area—and Lurya, a place of strategical importance, and continued their advance. The situation therefore now was that a definite military advance beyond the demarcation line was in progress which constituted a real menace to the Albanian State and Government.

On November 3 the Council of Ambassadors finally decided on the frontiers.[1] On the 7th Great Britain took action by the following telegram to the Secretary-General of the League:

"Continued advance of Jugo-Slav forces into Albania being of nature to disturb international peace His Majesty's Government desire to call the attention of the Council thereto and request that

[1] *See* reply of Mr. Harmsworth, Commons, Nov. 7. The formal decision is dated Nov. 9.

you will take immediate steps to summon meeting of the Council to consider situation and to agree upon measures to be taken under Article 16 in the event of the Serb-Croat-Slovene Government refusing or delaying to execute their obligations under the Covenant. Ambassadors Conference have now decided frontiers of Albania, which will at once be notified to interested parties."

November 7. (*Signed*) D. LLOYD GEORGE.

The substance of this telegram was made known that night to the House of Commons. Great Britain followed up this step by recognizing the Albanian Government, a step which was immediately adopted by Italy. On November 12 the Council of Ambassadors, representing Great Britain, France, Italy and Japan, formally communicated to the Council of the League their decision on the frontiers and their recognition of the Albanian Government.

When the Council finally assembled the Serb-Croat-Slovenes were quite clearly placed at a grave disadvantage. The frontiers decision offered them concessions of Albanian territory, though they were menacing Albania. The threat under Article 16 of the Covenant of a " joint economic blockade " of the Powers against them had already begun to have its effect. The Serbian exchange was falling. The Serbian loan in London was becoming unnegotiable. The Serbs were already withdrawing their troops from Albania and had announced their acceptance of the frontiers on November 16, when

the Council met to consider the application of the economic blockade. The first session was secret, but on the 17th a public session was held. Mr. Fisher informed the Council that the British Government was gravely disturbed at the Serb action, especially as the frontiers award was favourable to the Serb-Croat-Slovene State. He did not mince matters, but said that "the British Government infers . . . that a plan is on foot for detailing the North of Albania" (*i.e.*, all Albania north of the Mat River) "from the Tirana Government by encouraging certain disaffected members of the Mirdite tribes to revolt from the Government of Tirana." As some of Wrangel's Russians had been seen in the advance he asked pertinently, "How could these forces have been either organised or equipped" (incidentally with guns and aeroplanes) "without the assistance of the Jugo-Slav authorities? Why, indeed, have the Belgrade newspapers made no secret of the support given to the movement by the Serb-Croat-Slovene Government?" He then quoted evidence from the British commercial representative at Durazzo to show that devastation of territory, etc., by the Serb troops had taken place. He demanded, therefore, a definite termination of these serious incidents, and, though, "perhaps the blame is not all on one side, the Serbs with a great and well-equipped army must see that there is no further cause for trouble." Both Serb-Croat-Slovene and Albanian representatives indicated their acceptance of the frontiers at this meeting.

On the 18th the Serbian representative, M. Boskovic, attempted some justification of their position. Mr. Fisher, in reply, quoted effectively from Belgrade newspapers, and asked definitely that an end might be put "to this lamentable story." On the 19th the Council finally ended the tale by adopting a resolution. This merely recorded, first, the decision on the frontiers; next, the declaration of the Serb-Croat-Slovene Government that they were evacuating all territory immediately beyond their new frontiers; and, finally, the declaration of Albania and the Serb-Croat-Slovene State that they would live in future as good neighbours. It next gave power to Lord Robert Cecil's Commission of Enquiry (which had finally left for Albania on November 11) to inform the Council of the retirement of Serb-Croat-Slovene and Albanian troops from the provincial zone of demarcation, to keep in touch with the Delimitation Commission, and to "place itself at the disposal of the local authorities to assist in carrying out the evacuation so as to avoid incidents.") "The (Enquiry[1] Commission shall satisfy itself that no outside assistance is given in support of a local movement which might disturb internal peace in Albania. The Commission shall examine and submit to the Council measures to end the present disturbances and to prevent their recurrence." In other words, that Commission, whose despatch

[1] As the exact detail of the Frontiers was to be determined by a Delimitation Commission, it was decided on Nov. 18 to make both parties retire from provisional zones of demarcation in the areas affected by the frontier decision.

had been almost opposed by more than one Great Power, was now endowed with large authority by those very Powers. The Assembly was strikingly vindicated, the authority of the Covenant was upheld, Albania was at last recognised individually by great states as well as collectively by the League, her frontiers were at last defined, and the ægis of the protection of the Great Powers was thrown over her.

(*j*) Reflections on the Albanian Question

It would seem that this was a happy ending to the story. But this is only partly true. Evacuation of North Albania in mid-November was certain to meet with difficulties and delays, and repatriation of refugees was impossible. Had the Principal Powers decided on the frontiers and insisted on evacuation a month earlier, grave incidents would have been averted. Not only would evacuation have taken place completely before winter, but, what was much more important, the Commission of Enquiry could have supervised the repatriation of the 40,000 homeless refugees who had been driven from the disputed areas and had sought refuge in Albania. These poor people must therefore drag out another winter dependent on the support of the American Red Cross and the Albanian Government. In summing-up we may distinguish several aspects (i.) the frontiers decision, (ii.) the Italian attitude, (iii.) the League policy.

(i.) *The Frontiers Decision.*—The decision on the frontiers is more fully analysed elsewhere,[1] but its results can be briefly stated. The frontiers of 1913 were intended by Austria-Hungary to make relations difficult between Serbia and Albania, and they admirably effected that end. They corresponded to no ethnic, geographic or strategic principles, and included such absurdities as leaving the Serbs in possession of two towns and the Albanians possessed of the only road between them. The Northern Commission had been unable to conclude its work because the frontiers laid down in London were based on inaccurate maps. What the Conference of Ambassadors now did was to make it difficult for either side to fight one another by interposing natural barriers—in the Kastrati area and the Prisrend area—removing the Albanians from dangerous proximity to Serbian towns, and by giving one road wholly to Serbia and another wholly to Albania. With the latter small exception all the rectifications were in favour of Serbia.. But the land transferred is mostly barren mountain and the population transferred is quite small. Only in the Kastrati area is any transfer of moment made, and here the objection is sentimental rather than practical.

It is clear that the Albanians would have been wise to accept these frontiers at once, for they would then have been able to repatriate their refugees

[1] *Vide* Appendix III.

before winter came in. Moreover, the Albanians themselves did not claim that Albania should include some hundreds of thousands of Albanians who lie beyond the frontiers of 1913. They were not, therefore, standing out for the true ethnic principles; they did not dare to do so. The frontiers of 1913 in the Argyrocastro area handed over many thousands of Greeks and Græcophils to Albania, and she was, in point of fact, extremely fortunate to have this award confirmed by the decision of 1921. It is evident that she herself thought so, for on the news (not official) reaching Albania that she was to receve Argyrocastro, fêtes were organised by the Government to celebrate this event. It is singular that this concession to Albanian sentiment, which was a violation of the ethnic principle, in no way induced the Albanians or their British supporters to moderate their claims elsewhere. It is true that Italy was still standing out for the frontiers of 1913 in the first week of October. But Italy's interest in Albania is not the same as Albania's interest in herself. The Albanians seem to have been induced to "stick out" for the frontiers of 1913 largely owing to the vociferous support of their misguided though sincere Albanophile friends in England. These latter encouraged them in the Press to refuse all concession on this point instead of advising them to make small concessions to avoid greater ones. It is a remarkable fact that the Albanophiles kept complaining that all diplomats were intriguers and that the

frontiers of Albania ought to be decided by the Assembly of the League, not by the Council of Ambassadors. Yet when on October 3 the Assembly recommended the League to accept the decision of the Ambassadors on the frontiers, there was no change in the attitude of Albanophiles in this country, and the new Albanian ministry, which took office in October, re-affirmed its adhesion to the frontiers of 1913. Everyone sympathises with Albania's difficulties, but if the Albanian Government had made it clear in August that it would accept the frontiers according to the proposals then rumoured, Italy would not have received a highly important concession at the end of September or early in October, which may in the end be much more fatal to Albania than is the loss of a few square kilometres of mountain country.

(ii.) *The Concession to Italy.*—A great deal had been heard of Italy's interest in Albania, but towards the end of September Press rumours became definite that some such concession to Italy had actually been made by the Great Powers. Nothing is certainly known except that on November 16 it was announced in the Press that "a formula for governing the future national status of Albania has *recently* been accepted by the British, French and Italian Governments." *Recently* is a term hard to interpret, but rumours on the subject of Great Britain and France having accepted a formula safeguarding Italy's interests in Albania were already afloat in the Press at the

end of September. Torretta was still refusing to accept the modification of the 1913 frontiers on October 8, but subsequently did so. This acceptance of the "formula" can therefore hardly have been earlier than the end of September, and may have been dependent on Italy's accepting the modified frontiers. This she did at any rate on November 3. The formula is described as follows: "In this (formula) it is recognised that any violation of the Albanian frontiers constitutes a menace to the strategical security of Italy, and Great Britain and France agree to recommend to the League of Nations that any intervention which might be necessary for the purpose of restoring the territorial frontiers of Albania should be delegated to Italian troops. Should the League decide not to intervene, the two Powers (*i.e.*, France and Great Britain) will reconsider the question in the light of the recognised menace to Italian strategical security referred to above." This declaration is not wholly satisfactory. Italy constitutes herself the restorer of Albania's territorial integrity, if it is violated by her neighbours (*i.e.*, Greeks and Serb-Croat-Slovenes). Great Britain and France will vote in the League Council for Italy having the mission to restore order. On the other hand, the League can refuse to intervene because its decisions must be unanimous, and in such case Great Britain and France will reconsider the question, though admitting that Italy is strategically menaced by such violation. This

formula does apparently give Italy some sort of undefined right of intervention under certain circumstances, in view of her "strategical interests." Italian troops still occupy the island of Sasseno, which commands the Bay of Valona, and, though Sasseno therefore still belongs juridicially to Albania, Italy practically holds it. This is perhaps purely the affair of Italy and Albania. But it is not easy to see how an external power can have a "strategical interest" in another state's security. Still less can it be seen how any right of intervention by Italy is compatible with the "sovereignty and independence" of Albania (for which Italy has several times publicly expressed her desire) and which has been stated as a basic principle by the League on several occasions.

(iii.) *The League.*—One thing is certain. Albania owes to the League what America owes to Columbus, that is, "among other things, her existence." She owes it to the League that the Conference of Ambassadors finally decided to take up the question of her frontiers. She owes it to the League that her wrongs were trumpeted forth to the world during the whole period of the session of the Second Assembly. She owes it to the League, above all, that a Commission of Enquiry was sent out, which eventually became a most important instrument for effecting the evacuation of Albania and for preventing any renewals of unrest and disturbance. Finally, and last of all, Albania owes it to the League that the policy of the Economic Blockade was

invoked in her favour, and with success. At every stage of her origin and development since the war the League has been the friend and champion of Albania, and this work has been accomplished by purely moral force.

IX

THE LEAGUE IN RELATION TO THE BRITISH DOMINIONS, TO LATIN AMERICA AND TO THE UNITED STATES

THE experience of most of those who watched the Second Assembly was that the League had demonstrated itself to be a European necessity. The governing of Danzig and the Saar, the stopping of hostilities between Lithuania and Poland, the settling of Albanian and Silesian questions were all great services. The question that remained was this: Is the League of real service to Asia, to Africa, to Australasia and to the Americas? Of the first two there can be no doubt; Europe is too engaged with both Continents not to require the League to disentangle the difficulties that will arise in regard to them. With the British Dominions and the Americas the story may be different.

I. THE BRITISH DOMINIONS

This is not the place to discuss the position of the British Dominions in the League, though it is one of unusual, and even of extraordinary, interest. Their position is anomalous, for they

have acquired powers both for and against their Mother Country. A bold individual is said to have asked a prominent Dominion representative, "Would your Dominion help the League in economically blockading the Old Country?" To which the Dominion statesman diplomatically replied: "I will not contemplate such a contingency as possible." This is sound in sense, but not in law. It is not really easy to see how the members of the League can assume its obligations without becoming separate states, though it is specially provided that "A member of the League can be a dominion or colony." One significant point may be noted: Article 35 of the Protocol of the Permanent Court of International Justice throws open the Court to members of the League and also to states mentioned in the Annex to the Covenant, *i.e.*, Canada, Australia, etc. This article might, therefore, make Canada a litigant against Australia, or both Dominions litigants against Great Britain. It is interesting that in the conventions made at Barcelona, the representative of Great Britain made an express reservation on this head.[1]

(*a*) Canada

On the whole it is perhaps true to say that the Dominions have not defined their attitude, but that under certain circumstances they have shown

[1] Hammarskiold, *Permanent Court of International Justice*, p. 18.

considerable independence. Perhaps Canada has been most original in this way. In the First Assembly Mr. Rowell (Canada) denounced the secret Treaty of London (April 26, 1915) as "unjust," though Great Britain was a party to it, and advocated the admission of Albania while Great Britain was still resisting it. Mr. Rowell also stood up stoutly for the doctrine that the American continent should not pool its raw materials with those of Europe.[1] In the Second Assembly, Chief Justice Doherty, as already described on pp. 64 and 65, argued for the deletion of Article 10 of the Covenant. Not wholly consistent with this attitude of detachment from Europe was another action of Mr. Doherty in carrying a motion requesting the principal Allied Powers to define the status of East Galicia. This measure was doubtless influenced by the fact that numbers of East Galicians have emigrated to Canada, and carry political weight there. Mr. Doherty, in his speech of September 12, dwelt on the interest Canada felt in having a representative (Mr. Warre) on the Saar Valley Commission, and assured all of Canada's fidelity to the League.

(*b*) Australia

Mr. Hughes has tended in his speeches to emphasise the value of a British, rather than an International, League of Nations. Nor has the action

[1] He also criticised the amount of the salary of the Secretary-General, who is a British subject, though an international official.

of Australia indicated much interest in the League. At the last moment, however, Captain Bruce was appointed as Australia's representative to the Second Assembly, and his influence was marked in the Committee on Constitutional Amendments. In his speech at the Assembly of September 13, he stressed the views of Australia as two, to "consider and, if necessary, to criticise the actions of the Council, and to endeavour to substitute international justice for the arbitrament of war. He ended with the remarkable words: "If the League of Nations goes, the hope of mankind goes also." There was perhaps significance in the fact that he took no part in the Debate on Mandates.

(*c*) New Zealand

New Zealand has always been remarkable for a close attachment to the Empire, but it is also no enemy to the League.[1] Sir James Allen, who spoke on the Mandates Debate, September 23, gave the benefit of his great practical experience of the working of C Mandates in Samoa. As an instance of the dangers of delay in defining them, he told an "exaggerated but true" story. "In Western Samoa a resident, not a native, but one who had lived there many years, actually suggested, instead of the C Mandate being granted, that

[1] As reported in Press, Jan. 3, 1921, Mr. Massey indicated that in international conferences the British Empire should present a united front.

Samoa should be handed over to the ex-Kaiser ! " The moral of this story was that the A and B Mandates should be defined as soon as possible.

(*d*) South Africa

General Smuts is famous as one of the first to conceive the idea of a League, and one of those who laid down the doctrine of Mandates for governing the backward races. To judge by his public utterances he combines an intense belief in the League with a very extended doctrine of the powers to be enjoyed by the individual Dominions under the British Crown, and he strongly insisted on the United States recognising their separate representation at Washington. His three representatives, Lord Robert Cecil, Professor Gilbert Murray and Sir A. Blankenberg were among the most distinguished of any delegates.[1] They announced that their chief purpose and instruction was to press the question of disarmament on Assembly and Council, notably on the Council.

(*e*) India

India is now recognised as having Dominion status. Its representation was headed by Sir William Meyer, the High Commissioner, and the other delegates were the Maharao of Cutch and Mr. Šastri. The first devoted himself chiefly to

[1] It is interesting that, in a committee meeting on revision of Art. 18, the South African representative voted against the British proposition.

finance, where he showed his independence by attacking British proposals. Mr. Śastri's activities have already been described in Chapter I. He was notable among other things as a sturdy upholder of the use of English, as well as French, upon committees.

On the whole the British Dominion representatives gave the idea that they had not quite realised or expressed their position in respect to the League. Their virility, individuality, independence and power will always be an asset to it. The query arises: What do they get in return? The real answer to this is obvious. They owed to the League the fact that they have not only become nations but are recognised as such in the eyes of the world. The genuine astonishment of foreigners that the various Dominion speakers should take a line independent of the Mother Country shows this fact well. As long as the Dominions remain in the League they will increase their prestige in the eyes of the world. If, and as soon as, they retire, they will depress it. Hence no sooner will a Dominion have retired from the League than it will at once seem to rejoin it. What could give, for example, Ireland a position in the world like her appearance at the League as a Dominion?

II. Latin America

(*a*) General

If the gain of the League to the British Dominions is on the whole clear, that is not the case with

Spanish Americans. They represent 90 millions of men, and 16 members of the League, and are curiously enough grouped round, and much influenced by, Spain, their original mother, whose misgovernment caused their independence. One of their great demands was for Spanish to have an equality with English and French as a language of the League. Spanish can be spoken, and was by M. de Gimeno (September 12), but it is not an official language, and this is one cause of grievance. A more serious consideration is as to whether the League can afford permanent assistance or give substantial benefits to Latin America. Brazil, *i.e.*, Portuguese America, is represented on the Council and therefore has a great position, but this fact is generally believed to have been the cause of the defection of the Argentine Republic, which considered Spanish America slighted as she was not chosen. The Latin American speakers are often interesting, most of them are eloquent, some subtle in technicalities, one or two, like M. Restrepo (Colombia) humorous. They do not always vote *en bloc;* for instance, the Argentinian amendment to the Covenant, which some aver to have been pro-German in tendency (*vide* chap. III., sect. *e*), was supported by four of them but opposed by others. They secured two judges in the Court of Justice—including a Spaniard, three; they failed, however, to nominate Alvarez (Chile) owing to the opposition of the Council. They also failed to carry da Cunha (Brazil) as President of the Assembly.

But earlier in the year, at the Transit Conference at Barcelona, they achieved important results in concert. In any case they always represent a formidable potential force.

When considering practical matters they must ask themselves what they gain by the League, and in material terms the answer is not easy in view of the limiting factors of the expense and distance. There arose, for example, a dispute between Panama and Costa Rica, which led to fighting in February, 1921. The Council of the League (March 4) telegraphed to both parties, recalling to them their obligations under the League. The Council reported later that all danger of conflict had been averted by " the good offices of the United States." This was a polite way of putting it. In brutal fact the United States informed both parties that hostilities would not be tolerated, and sent a battleship to enforce her views. This settled the matter, but the incident did not exhibit the League in a very effective light.

(*b*) Dispute between Chile and Bolivia

The dispute between Bolivia and Chile, which was thoroughly discussed before the Assembly, was hardly more reassuring to Latin Americans. Bolivia had requested a revision of her treaty with Chile of October 20, 1904. By this she had ceded under duress very valuable nitrate-producing territory, and she was asked to have the treaty declared

"inapplicable" under Article 19 of the Covenant. On September 7 Don Edwards, the Chilean delegate, opposed this demand as "inadmissible"! President Karnebeek, with great tact, ultimately succeeded in transferring the dispute to a committee of three very distinguished jurists, headed by Struycken (Holland), as to the competence of the Assembly under Article 19. It runs thus, "The Assembly may from time to time advise the reconsideration by members of the League of treatise which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world."

The jurists delivered judgment (September 22) that the Bolivian application was not in order because "the Assembly . . . cannot of itself modify any treaty, the modification of treaties lying solely within the competence of the contracting States." The "advice" contemplated was only where treaties have become "inapplicable," [1] *i.e.*, "when the state of affairs existing at the moment of their conclusion has subsequently undergone, either materially or morally, such radical changes that their application has ceased to be reasonably possible or in cases of the existence of international conditions whose continuance might endanger the peace of the world." In other words, Bolivia's application was quashed as a technicality. When the matter came before the Assembly

[1] "Inapplicable" appears to be a mistranslation from the French; the English equivalent is "obsolete."

(September 28) the Bolivian delegate, Aramayo, compared his country to the "lamb" and Chile to the "wolf" of fable. Don Edwards offered to negotiate on the Treaty direct, Mr. Balfour spoke soothing words, and the affair ended. Everyone felt glad it did. It was, in fact, impossible to deal adequately with the matter, partly owing to Chile's opposition, partly owing to the much more serious danger of offending the United States by violating the Monroe Doctrine. Yet Bolivia had gained something. Chile had at least had to defend her position publicly. Chile had offered to open direct negotiations, and most people recognised the force of Bolivia's moral case. Yet it was unreasonable, in any case, to expect the League to revise all treaties which appeared to be unjust. That would have been giving it powers to fashion the world anew and to redress every ancient wrong.

III. The United States and the League

(*a*) Views of Mr. Harding

A number of American enthusiasts made the pilgrimage to the Second Assembly at Geneva. One line which they were fond of taking was that Mr. Harding was a kind of concealed supporter of the League. In support of this contention they adduced the fact that three men whom he had appointed to high positions—Herbert Hoover, Hughes and Taft—were all of them at one time favourers of the League, and, like Mr. Harding, were

only waiting a favourable moment to drop the mask and avow themselves its passionate champions. No European will lightly profess to understand the ways of American politics, but at least the actions and utterances of President Wilson's successor are not at the moment encouraging. On October 12, 1920, before he actually assumed office, he was reported as declaring himself "unalterably opposed to the League," though he favoured "an association of nations." He confirmed this in his Presidential address of March 4, 1921, saying, with obvious reference to the League: "A world super-government is contrary to everything we cherish, and can have no sanction by our Republic," and again on April 12: "In the existing League of the world-government, with its superpowers, this Republic will have no part." "The League Covenant can have no sanction for us." And he suggested that it had been made "an enforcing agency of the victors in the War." This is as remarkably definite as it is inaccurate. For, whatever the League may be, it is not a superstate. Unless Mr. Harding's word is to undergo revision, he is and always will be an opponent of the Geneva League.

(*b*) Views of some American Journalists at Geneva

This conclusion does not mean that he does not favour disarmament, arbitration and peacemaking.

He is undoubtedly an enthusiast for all three. But he makes a separate Treaty with Germany, he advocates a sort of Hague Conference system of arbitration "with teeth in it," and he summons a Disarmament Conference at Washington. In this last action Mr. Harding was not wholly consistent, for one of the finest impulses behind America's rejection of the League was the feeling that small states were placed by it at a disadvantage in respect to the Principal Powers. Yet when Mr. Harding summons a Conference he entirely disregards the small states. General Smuts had to remonstrate vigorously before South Africa's claims to representation were afforded full satisfaction, and Mr. Branting complained in vain that Sweden had not received any invitation. When we add to this the vigorous coercion applied to Panama and Costa Rica, Mr. Harding's record in defending the rights of small states is hardly fortunate. His policy towards the League as a whole is more serious, for he seems to aim at superseding or forestalling the League. That one or other of these aims is the object of the present United States policy can hardly be doubted. The following passage from a distinguished American journalist at Geneva is of value.[1] "Rightly or wrongly, everybody here is convinced that the aim of the present American administration is to wreck the League, if possible, first by refusing to

[1] *Chicago Daily News*, Sept. 5. P. S. Mowrer.

co-operate therewith in even the most laudable humanitarian tentatives; . . . second, by attempting to substitute some other international organism made in Washington. . . . The result is that the League is merely strengthened in its determination to preserve its own existence."

A list of the points by which the United States blocks or embarrasses the League was compiled by the same American authority. They were as follows:

(1) *Disarmament.*—The summons to the Washington Conference naturally made most of the League discussion futile, and all of it incomplete.

(2) *Mandates.*—These were first interrupted by Wilson's note and again by Harding's note of August 24, 1921, thereby preventing their definition. The League invitation to send a representative was not acknowledged.

(3) *Austrian Financial Rehabilitation.*—This was delayed by American inaction.

(4) *International Court of Justice.*—The United States refused all co-operation and did not even acknowledge the invitation.

(5) and (6) *Opium and White Slave Traffic.*—The transfer of the Conventions concerning these from the Hague to the League is accepted by all signatories except the United States.

(7) Transfer to the League from Paris of the International Hygiene Bureau is prevented by the United States.

(8) Invitation to International Immigration Conference refused by the United States.

To these another American journalist[1] added the following:

(9) and (10) Blocking of proposals *re* sanctions for Covenant breakers and *re* registration of Treaties.

After all this it is satisfactory to record that the United States suddenly, at the end of September, took to acknowledging communications from the League, and acknowledged fifteen at once. For this action it was ironically congratulated by yet a third American journalist.[2] May it be the first step!

(*c*) The Monroe Doctrine

All this does not reveal an agreeable prospect. For it seems clear that the United States has at present definitely disassociated herself from the League and from all international projects with which it may be connected. This move is in itself serious. It is still more serious when we recollect the warm humanitarian zeal and the intense hatred of "imperialism," and the sincere ardour for peace which the United States has always displayed.

[1] Lincoln Eyre, *New York World*, Sept. 28.
[2] H. Wood, *United Press*, Sept. 30.

But it is most serious of all when we regard the Monroe Doctrine. This policy, under so many different interpretations, has been constant in one aim. The United States is to be the leading power in the American Continents and Latin America is to follow that lead. This policy has been an increasingly difficult one to carry out as the world contracted in size. The League unquestionably offered an ideal opportunity of solving this difficult problem. In it the world was to be included, the Monroe Doctrine recognised and the United States evidently considered as the presiding genius of her continent. Now the struggle is to be between the League and the United States for the body of Latin America. Neither will surrender without a struggle, but the sign of the League's surrender will be the withdrawal of Latin American States. The sign of her success will be the return of the Argentine Republic to the fold of the League. But every year that the United States remains outside the League makes it more difficult for her either to come inside it or to influence it.

X

A FEW REFLECTIONS

THERE is a delightful story, told by H. G. Wells, and quoted with appreciation by Anatole France[1] which reveals the modern state of inter-anarchy preceding the creation of the League. Mr. Wells imagines some inhabitants of the earth landing on the moon and falling into conversation with the Grand Lunar who rules the people of the Moon. The Grand Lunar, a man of superior intelligence, asked the travellers what was the form of government on the earth. They answered that they "were divided into independent states, some big, some little, and all inspired by an ardent patriotism, which is the ruling passion of the terrestrials." "Did you not say," said the Grand Lunar, "that these states are independent of each other? Then what tribunal judges their disputes?" "There is none," answered the terrestrial; "the pride of the states would not suffer it. When one of them thinks itself wronged or offended, it takes to arms to defend its rights or avenge its honour." On hearing this reply, the Grand Lunar looked at

[1] *The Nation* (New York), Dec. 14, 1921, p. 695.

the terrestrials with surprise mixed with horror and, without saying another word to them, he had them locked up as the most dangerous kind of fools !

The real question that arises, therefore, to all those who deal with the League, is as to whether it does anything to avert the state of things on account of which the Grand Lunar imprisoned the terrestrials ? At present the League is the only permanent organisation which applies or offers any solution to the problem. For the moment, however, we may perhaps act as *advocatus diaboli* and bring the arguments against it. Mr. Lansing, President Wilson's Secretary of State, has brilliantly marshalled them. He would not have a territorial guarantee by the League, but "a negative guaranty"; he would have a non-obligatory international court like The Hague Tribunal, and he would have had a League Council with equal representation for all Members of the League.[1] But the equality of all states, or "international democracy," as Mr. Lansing calls it, is not an attainable ideal. No machinery would do away with the power and prestige of a state like Great Britain or France at Geneva, or bring Costa Rica or Albania up to their level. Nor would it be democratic that a state, representing a few hundreds of thousands, should have equal power

[1] Though he proposed also a supervisory committee of five, elected by majority of the Assembly. *Vide* Mr. Lansing, *The Peace Negotiations: a Personal Narrative*, 1921, and a review by my friend, Mr. J. R. M. Butler, *Contemporary Review*, Dec., 1921, to which I owe much.

with a state representing tens of millions. Further, equality of power among states implies equality of financial contribution, and in this respect the League's experience is decisive. Small states neither can nor will pay more than a modest share of expenses. It has proved difficult enough in the League to get them to pay even their proportionate share.

It is, of course, possible to imagine an alternative plan, but what is that plan as at present disclosed? Mr. Harding has advocated an association of nations, but, when it came to disarmament, he left out the smaller nations and summoned only the Great Powers to Conference. So that the only alternative to the League appears to be a looser form of an international organisation and a separate summoning of the Great Powers to decide important questions. If the League stands for anything or means anything, it means a steady moral pressure on all Powers, and particularly on great ones. It is much more difficult to utter the doctrines of imperialism or of force in the Assembly at Geneva, than to support them in a diplomatic note or in a secret Conference. It is much more difficult to stand up and vote against a measure supported by an overwhelming majority in the Assembly, than it is to decide in the privacy of an office that the interests of country A or country B require an opposition to that measure. When a country advocates an unpopular cause or opposes a popular measure in the Assembly

it feels itself morally isolated. It is frozen by an atmosphere of cold condemnation. No one could help pitying Askenázy as he supported Poland almost alone in the Assembly, no one was surprised when France, which had withheld her consent to the White Slave Traffic Convention in committee, made serious concessions in face of the enthusiasm of the Assembly. Equally in the First Assembly Great Britain, which had opposed Albania's admission to the League in committee, bowed gracefully and withdrew before a two-thirds majority of the Assembly. Such instances might be multiplied but their significance is quite extraordinary. One national state can contend with another, but no state can fight an atmosphere, an influence, a pressure which is truly international. Such influences are silent, subtle, gradual, moral, cumulative, and finally irresistible.

Yet it is necessary to utter a word of caution. Influences like these are not suddenly created and they can only be effective if intense conviction dwells in a majority of the Assembly. Yet it would be a mistake to suppose, as has often been asserted, that the League creates a superstate or an international body which controls or coerces national governments, or, as Mr. Butler says, "at any rate binds them beforehand to act in accordance with the findings of some external body." The League can do none of these things. Even in a case like the admission of a state to

the League where an individual state can be overruled by a two-thirds majority, state sovereignty is amply preserved. No individual Government is under an obligation to recognise such a state, in spite of the collective decision. In all other directions similar safeguards exist. As Lord Robert Cecil has written: "The truth is that the League, so far from being a super-state, is not even an Alliance. The Covenant imposes only one direct obligation which in any real sense limits their freedom, and that is the obligation not to go to war suddenly or secretly." [1] That indeed is an important obligation and the best hope of the future of the world. It has often been taken by individual states to one another, never yet been made a Covenant between so many states.

Yet, if we seek for the triumphs of the League, they will not in the main be in the direction of obligations enforced. They will rather be in the direction of frictions averted, conflicts modified, settlements facilitated. Not only have states sometimes been forced to yield to the moral pressure of the League, but they have sometimes been willing to accept terms from the League which they would not accept from rival disputants or enemies. The Silesian award is one illustration of this; the Albanian question, in every one of its complicated phases, another. At the

[1] American Supplement to *Times*, July 4, 1921, quoted by Mr. Butler.

Peace Conference it was often found that small States would consent to accept the decision of the Great Powers, what they had previously refused to accept of their own free-will. The Great Powers are beginning to learn to accept a decision from the League, which they would not accept from another state or even from a Conference of Ambassadors.

The dangers of the League do not lie in its constitution, in its members or in itself. They lie in those states which are not members of the League, like Hungary, Germany, Russia and the United States. Only when the League encloses all comers is it safe against all assailants.

L'Envoi

"*If you stand, and stand I trust you will, may you stand as unimpeached in honour as in power; may you stand not as a substitute for virtue but as an ornament of virtue, as a security for virtue; may you stand long, and stand the terror of tyrants; may you stand the refuge of afflicted nations; may you stand a sacred temple for the perpetual residence of an inviolable justice.*" [1]—Burke.

[1] Speech in the Impeachment of Warren Hastings, June 14, 1794.

APPENDIX I

THE COVENANT OF THE LEAGUE OF NATIONS

WITH ANNEX

APPENDIX I

(*a*) The Covenant of the League of Nations

THE HIGH CONTRACTING PARTIES,

In order to promote international co-operation and to achieve international peace and security by the acceptance of obligations not to resort to war, by the prescription of open, just and honourable relations between nations, by the firm establishment of the understandings of international law as the actual rule of conduct among Governments and by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organised peoples with one another,

Agree to this Covenant of the League of Nations.

ARTICLE 1.—The Original Members of the League shall be those of the Signatories which are named in the Annex to this Covenant and also such of those other States named in the Annex as shall accede without reservation to this Covenant. Such accession shall be effected by a Declaration deposited with the Secretariat within two months of the coming into force of the Covenant. Notice thereof shall be sent to all other Members of the League.

Any fully self-governing State, Dominion or Colony not named in the Annex may become a Member of the League if its admission is agreed to by two-thirds of the Assembly, provided that it shall give effective guarantees of its sincere intention to observe its international obligations and shall accept such regulations as may be prescribed by the League in regard to its military, naval and air forces and armaments.

Any Member of the League may, after two years' notice of its intention so to do, withdraw from the League, provided that all its international obligations and all its obligations under this Covenant shall have been fulfilled at the time of its withdrawal.

ARTICLE 2.—The action of the League under this Covenant shall be effected through the instrumentality of an Assembly and of a Council, with a permanent Secretariat.

ARTICLE 3.—The Assembly shall consist of Representatives of the Members of the League.

The Assembly shall meet at stated intervals and from time to time as occasion may require, at the Seat of the League or at such other place as may be decided upon.

The Assembly may deal at its meeting with any matter within the sphere of action of the League or affecting the peace of the world.

At meetings of the Assembly each Member of the League shall have one vote and may have not more than three Representatives.

ARTICLE 4.—The Council shall consist of Representatives of the Principal Allied and Associated Powers,[1] together with Representatives of four other Members of the League. These four Members of the League shall be selected by the Assembly from time to time in its discretion. Until the appointment of the Representatives of the four Members of the League first selected by the Assembly, Representatives of Belgium, Brazil, Greece, and Spain shall be Members of the Council.

With the approval of the majority of the Assembly, the Council may name additional Members of the League whose Representatives shall always be Members of the Council; the Council with like approval may increase the number of Members of the League to be selected by the Assembly for representation on the Council.

The Council shall meet from time to time as occasion may require, and at least once a year, at the Seat of the League or at such other place as may be decided upon.

The Council may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world.

Any Member of the League not represented on the Council shall be invited to send a Representative to sit as a member at

[1] The Principal Allied and Associated Powers are the following: The United States of America, the British Empire, France, Italy and Japan. (See Preamble of the Treaty of Peace with Germany.)

any meeting of the Council during the consideration of matters specially affecting the interests of that Member of the League.

At meetings of the Council, each Member of the League represented on the Council shall have one vote and may not have more than one Representative.

ARTICLE 5.—Except where otherwise expressly provided in this Covenant, or by the terms of the present Treaty, decisions at any meeting of the Assembly or of the Council shall require the agreement of all the Members of the League represented at the meeting.

All matters of procedure at meetings of the Assembly or of the Council, including the appointment of Committees to investigate particular matters, shall be regulated by the Assembly or by the Council and may be decided by a majority of the Members of the League represented at the meeting.

The first meeting of the Assembly and the first meeting of the Council shall be summoned by the President of the United States of America.

ARTICLE 6.—The permanent Secretariat shall be established at the Seat of the League. The Secretariat shall comprise a Secretary-General and such secretaries and staff as may be required.

The first Secretary-General shall be the person named in the Annex; thereafter the Secretary-General shall be appointed by the Council with the approval of the majority of the Assembly.

The secretaries and staff of the Secretariat shall be appointed by the Secretary-General with the approval of the Council.

The Secretary-General shall act in that capacity at all meetings of the Assembly and of the Council.

The expenses of the Secretariat shall be borne by the Members of the League in accordance with the apportionment of the expenses of the International Bureau of the Universal Postal Union.

ARTICLE 7.—The Seat of the League is established at Geneva.

The Council may at any time decide that the Seat of the League shall be established elsewhere.

All positions under or in connection with the League, including the Secretariat, shall be open equally to men and women.

Representatives of the Members of the League and officials of the League when engaged on the business of the League shall enjoy diplomatic privileges and immunities

The buildings and other property occupied by the League or its officials or by Representatives attending its meetings shall be inviolable.

ARTICLE 8.—The Members of the League recognise that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations.

The Council, taking account of the geographical situation and circumstances of each State, shall formulate plans for such reduction for the consideration and action of the several Governments.

Such plans shall be subject to reconsideration and revision at least every ten years.

After these plans shall have been adopted by the several Governments, the limits of armaments therein fixed shall not be exceeded without the concurrence of the Council

The Members of the League agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections The Council shall advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those Members of the League which are not able to manufacture the munitions and implements of war necessary for their safety.

The Members of the League undertake to interchange full and frank information as to the scale of their armaments, their military, naval and air programmes, and the condition of such of their industries as are adaptable to warlike purposes.

ARTICLE 9.—A permanent Commission shall be constituted to advise the Council on the execution of the provisions of Articles 1 and 8 and on military, naval and air questions generally.

ARTICLE 10.—The Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of any such aggression or in case of any

threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled.

ARTICLE 11.—Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise, the Secretary-General shall on the request of any Member of the League forthwith summon a meeting of the Council.

It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends.

ARTICLE 12.—The Members of the League agree that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to enquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the report by the Council.

In any case under this Article the award of the arbitrators shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute.

ARTICLE 13.—The Members of the League agree that whenever any dispute shall arise between them which they recognise to be suitable for submission to arbitration and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject-matter to arbitration.

Disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which if established would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach, are declared to be among those which are generally suitable for submission to arbitration.

For the consideration of any such dispute, the court of arbitration to which the case is referred shall be the court agreed on

by the parties to the dispute or stipulated in any convention existing between them.

The Members of the League agree that they will carry out in full good faith any award that may be rendered and that they will not resort to war against a Member of the League which complies therewith. In the event of any failure to carry out such an award, the Council shall propose what steps should be taken to give effect thereto.

ARTICLE 14.—The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.

ARTICLE 15.—If there should arise between Members of the League any dispute likely to lead to a rupture which is not submitted to arbitration as above, the Members of the League agree that they will submit the matter to the Council. Any party to the dispute may effect such submission by giving notice of the existence of the dispute to the Secretary-General, who will make all necessary arrangements for a full investigation and consideration thereof.

For this purpose the parties to the dispute will communicate to the Secretary-General, as promptly as possible, statements of their case with all the relevant facts and papers, and the Council may forthwith direct the publication thereof.

The Council shall endeavour to effect a settlement of the dispute, and, if such efforts are successful, a statement shall be made public giving such facts and explanations regarding the dispute and the terms of settlement thereof as the Council may deem appropriate.

If the dispute is not thus settled, the Council, either unanimously or by a majority vote, shall make and publish a report containing a statement of the facts of the dispute and the recommendations which are deemed just and proper in regard thereto.

Any Member of the League represented on the Council may make public a statement of the facts of the dispute and of its conclusions regarding the same.

If a report by the Council is unanimously agreed to by the Members thereof other than the Representatives ofone or more of the parties to the dispute, the Members of the League agree that they will not go to war with any party to the dispute which complies with the recommendations of the report.

If the Council fails to reach a report which is unanimously agreed to by the Members thereof other than the Representatives of one or more of the parties to the dispute, the Members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice.

If the dispute between the parties is claimed by one of them, and is found by the Council, to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report and shall make no recommendation as to its settlement.

The Council may in any case under this Article refer the dispute to the Assembly. The dispute shall be so referred at the request of either party to the dispute, provided that such request be made within fourteen days after the submission of the dispute to the Council.

In any case referred to the Assembly, all the provisions of this Article and of Article 12 relating to the actions and powers of the Council shall apply to the action and powers of the Assembly, provided that a report made by the Assembly, if concurred in by the Representatives of those Members of the League represented on the Council and of a majority of the other Members of the League exclusive in each case of the Representatives of the parties to the dispute, shall have the same force as a report by the Council concurred in by all the Members thereof other than the Representatives of one or more of the parties to the dispute.

ARTICLE 16.—Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13, or 15, it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to submit it to the severance of all trade or financial relations, the prohibitions of all intercourse between their nationals and the nationals of the covenant-breaking State,

and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League or not.

It shall be the duty of the Council in such case to recommend to the several Governments concerned what effective military, naval or air forces the Members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League.

The Members of the League agree, further, that they will mutually support one another in the financial and economic measures which are taken under this Article in order to minimise the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking State, and that they will take the necessary steps to afford passage through their territory to the forces of any of the Members of the League which are co-operating to protect the covenants of the League.

Any Member of the League which has violated any covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the Representatives of all the other Members of the League represented thereon.

ARTICLE 17.—In the event of a dispute between a Member of the League and a State which is not a Member of the League, or between States not Members of the League, the State or States not Members of the League shall be invited to accept the obligations of membership in the League for the purposes of such dispute, upon such conditions as the Council may deem just. If such invitation is accepted, the provisions of Articles 12 to 16 inclusive shall be applied with such modifications as may be deemed necessary by the Council.

Upon such invitation being given, the Council shall immediately institute an inquiry into the circumstances of the dispute and recommend such action as may seem best and most effectual in the circumstances.

If a State so invited shall refuse to accept the obligations of membership in the League for the purposes of such dispute,

and shall resort to war against a Member of the League, the provisions of Article 16 shall be applicable as against the State taking such action.

If both parties to the dispute, when so invited, refuse to accept the obligations of membership in the League for the purposes of such dispute, the Council may take such measures and make such recommendations as will prevent hostilities and will result in the settlement of the dispute.

ARTICLE 18.—Every treaty or international engagement entered into hereafter by any Member of the League shall be forthwith registered with the Secretariat and shall as soon as possible be published by it. No such treaty or international engagement shall be binding until so registered.

ARTICLE 19.—The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world.

ARTICLE 20.—The Members of the League severally agree that this Covenant is accepted as abrogating all obligations or understandings *inter se* which are inconsistent with the terms thereof, and solemnly undertake that they will not hereafter enter into any engagements inconsistent with the terms thereof.

In case any Member of the League shall, before becoming a Member of the League, have undertaken any obligations inconsistent with the terms of this Covenant, it shall be the duty of such Member to take immediate steps to procure its release from such obligations.

ARTICLE 21.—Nothing in this Covenant shall be deemed to affect the validity of international engagements such as treaties of arbitration or regional understandings like the Monroe Doctrine for securing the maintenance of peace.

ARTICLE 22.—To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by them-

selves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilisation and that securities for the performance of this trust should be embodied in this Covenant.

The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations which, by reason of their resources, their experience or their geographical position, can best undertake this responsibility, and which are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.

The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognised subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory.

Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience or religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League.

There are territories, such as South-West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilisation, or their geographical contiguity to the territory of the Mandatory, or other circumstances, can be best administered under the laws of the Mandatory as integral

portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population.

In every case of mandate, the Mandatory shall render to the Council an annual report in reference to the territory committed to its charge.

The degree of authority, control or administration to be exercised by the Mandatory shall, if not previously agreed upon by Members of the League, be explicitly defined in each case by the Council

A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the mandates.

ARTICLE 23.—Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League:

(*a*) Will endeavour to secure and maintain fair and humane conditions of labour for men, women and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organisations;

(*b*) Undertake to secure just treatment of the native inhabitants of territories under their control;

(*c*) Will entrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children, and the traffic in opium and other dangerous drugs;

(*d*) Will entrust the League with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest;

(*e*) Will make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all Members of the League. In this connection, the special necessities of the regions devastated during the war of 1914-1918 shall be borne in mind;

(*f*) Will endeavour to take steps in matters of international concern for the prevention and control of disease.

ARTICLE 24.—There shall be placed under the direction of the League all international bureaux already established by general treaties if the parties to such treaties consent. All such international bureaux and all commissions for the regulation of matters of international interest hereafter constituted shall be placed under the direction of the League.

In all matters of international interest which are regulated by general conventions but which are not placed under the control of international bureaux or commissions, the Secretariat of the League shall, subject to the consent of the Council and if desired by the parties, collect and distribute all relevant information and shall render any other assistance which may be necessary or desirable.

The Council may include as part of the expenses of the Secretariat the expenses of any bureau or commission which is placed under the direction of the League.

ARTICLE 25.—The Members of the League agree to encourage and promote the establishment and co-operation of duly authorised voluntary national Red Cross organisations having as purposes the improvement of health, the prevention of disease and the mitigation of suffering throughout the world.

ARTICLE 26.—Amendments to this Covenant will take effect when ratified by the Members of the League whose Representatives compose the Council and by a majority of the Members of the League whose Representatives compose the Assembly.

No such amendment shall bind any Member of the League which signifies its dissent therefrom, but in that case it shall cease to be a Member of the League.

ANNEX

1. *Original Members of the League of Nations. Signatories of the Treaty of Peace.*

America, United States of.[1]	Australia.
Belgium.	Canada.
Bolivia.	India.
Brazil.	New Zealand.
British Empire.	South Africa.

[1] Has not joined.

Signatories of the Treaty of Peace (continued).

China.	Japan.
Cuba.	Liberia.
Czecho-Slovakia.	Nicaragua.
Ecuador.[1]	Panama.
France.	Peru.
Greece.	Poland.
Guatemala.	Portugal.
Haiti.	Roumania.
Hedjaz.[1]	Serb-Croat-Slovene State.
Honduras.	Siam.
Italy.	Uruguay.

States invited to accede to the Covenant.

Argentine Republic.[2]	Persia.
Chile.	Salvador.
Colombia.	Spain.
Denmark.	Sweden.
Netherlands.	Switzerland.
Norway.	Venezuela.
Paraguay.	

11. *First Secretary-General of the League of Nations.*

The Hon. Sir James Eric DRUMMOND, K.C.M.G., C.B.

Since Admitted.

Albania, 1920.	Finland, 1920.
Austria, 1920.	Latvia, 1921.
Bulgaria, 1920.	Lithuania, 1921.
Costa Rica, 1920.	Luxemburg, 1920.
Esthonia, 1921.	

(*b*) Note on Organisation of League during Second Assembly

(*a*) COUNCIL: One representative each from France, Great Britain, Italy, Japan (principal Allied Powers) *permanent;* one representative each from Belgium, Brazil, China, Spain (*temporary*). Dr. Wellington

1 Has not joined.
2 Announced intention to withdraw, Dec. 4, 1920.

Koo, Chairman. Chairman of Extraordinary (Silesian) Session, Vt. Ishii (Japan).

(*b*) ASSEMBLY: Three representatives each from 51 states, etc., Members of League. President Karnebeek (Holland), Chairman.

(*c*) COMMISSIONS:

I. Legal and Constitutional,	Scialoja [1] (Italy).
II. Technical, Transit, Health, Economic ..	Jonnesco (Rumania).
III. Armaments and Blockade	Branting (Sweden).
IV. Finances of League	Edwards (Chile).
V. Humanitarian (typhus, opium, etc.)	Doherty (Canada).
VI. Political, Admission of States, Albania ..	Gimeno (Spain).

[1] In succession to Mr. Balfour.

APPENDIX II

PROTOCOL ESTABLISHING THE PERMANENT COURT OF INTERNATIONAL JUSTICE

APPENDIX II

Protocol Establishing the Permanent Court of International Justice

Protocol of Signature

THE Members of the League of Nations, through the undersigned, duly authorised, declare their acceptance of the adjoined Statute of the Permanent Court of International Justice, which was approved by a unanimous vote of the Assembly of the League on December 13, 1920, at Geneva.

Consequently, they hereby declare that they accept the jurisdiction of the Court in accordance with the terms and subject to the conditions of the above-mentioned Statute.

The present Protocol, which has been drawn up in accordance with the decision taken by the Assembly of the League of Nations on December 13, 1920, is subject to ratification. Each Power shall send its ratification to the Secretary-General of the League of Nations; the latter shall take the necessary steps to notify such ratification to the other signatory Powers. The ratification shall be deposited in the archives of the Secretariat of the League of Nations.

The said Protocol shall remain open for signature by the members of the League of Nations and by the states mentioned in the Annex to the Covenant of the League.

The Statute of the Court shall come into force as provided in the above-mentioned decision.

Executed at Geneva, in a single copy, the French and English texts of which shall both be authentic.

December 16, 1920.

AFFONSO COSTA.
N. POLITIS.
J. C. BLANCO.
B. FERNANDEZ Y MEDINA.
HY. BRANTING.
J. GUSTAVO GUERRERO.
ARTURO R. AVILA.
HERLUF ZAHLE.
V. K. WELLINGTON KOO.
M. F. TANG.
HAYASHI.
H. VELASQUEZ.
CHAROON.
MOTTA.

Signed subject to the approval of the Government of the Union of South Africa:

R. D. BLANKENBERG.
RODRIGO OCTAVIO.
GASTAV DA CUNHA.
RAUL FERNANDES.
L. J. PADEREWSKI
J. ALLEN.
J. LOUDON.
CARLO SCHANZER.
ARTHUR JAMES BALFOUR.
MANUEL M. DE PERALTA.
MANUEL DIAZ RODRIGUEZ.
SANTIAGO REVALA.
DIOGENES ESCALANTE.
FRANCISCO JOSE URRUTIA.
A. J. RESTREPO.
F. HAGERUP.
W. S. MAYER.
LÉON BOURGEOIS.
HARMODIO ARIAS.
ARISTIDE DE AGÜERO
RAFAEL MARTINEZ ORTIZ.
EZEQUIEL GARCIA.

STATUTE for the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.[1]

CHAPTER I

Organisation of the Court

ARTICLE 1.—A Permanent Court of International Justice is hereby established, in accordance with Article 14 of the Covenant of the League of Nations. This Court shall be in addition to the Court of Arbitration organised by the Conventions of The Hague of 1899 and 1907, and to the special Tribunals of Arbitration to which states are always at liberty to submit their disputes for settlement.

ARTICLE 2.—The Permanent Court of International Justice shall be composed of a body of independent judges, elected regardless of their nationality from amongst persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognised competence in international law.

ARTICLE 3.—The Court shall consist of fifteen members, eleven judges and four deputy-judges. The number of judges and deputy-judges may hereafter be increased by the Assembly, upon the proposal of the Council of the League of Nations, to a total of fifteen judges and six deputy-judges.

[1] For clause on compulsory jurisdiction *v.* end of Art. 64.

ARTICLE 4.—The members of the Court shall be elected by the Assembly and by the Council from a list of persons nominated by the national groups in the Court of Arbitration, in accordance with the following provisions.

In the case of members of the League of Nations not represented in the Permanent Court of Arbitration, the lists of candidates shall be drawn up by national groups appointed for this purpose by their Governments under the same conditions as those prescribed for members of the Permanent Court of Arbitration by Article 44 of the Convention of The Hague of 1907 for the pacific settlement of international disputes.

ARTICLE 5.—At least three months before the date of the election, the Secretary-General of the League of Nations shall address a written request to the members of the Court of Arbitration belonging to the states mentioned in the Annex to the Covenant or to the states which join the League subsequently, and to the persons appointed under paragraph 2 of Article 4, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.

No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case must the number of candidates nominated be more than double the number of seats to be filled.

ARTICLE 6.—Before making these nominations, each national group is recommended to consult its Highest Court of Justice, its Legal Faculties and Schools of Law, and its National Academies and national sections of International Academies devoted to the study of Law.

ARTICLE 7.—The Secretary-General of the League of Nations shall prepare a list in alphabetical order of all the persons thus nominated. Save as provided in Article 12, paragraph 2, these shall be the only persons eligible for appointment.

The Secretary-General shall submit this list to the Assembly and to the Council.

ARTICLE 8.—The Assembly and the Council shall proceed independently of one another to elect, firstly the judges, then the deputy-judges.

ARTICLE 9.—At every election, the electors shall bear in mind that not only should all the persons appointed as members of the Court possess the qualifications required, but the whole body also should represent the main forms of civilisation and the principal legal systems of the world.

ARTICLE 10.—Those candidates who obtain an absolute majority of votes in the Assembly and in the Council shall be considered as elected.

In the event of more than one national of the same member of the League being elected by the votes of both the Assembly and the Council, the eldest of these only shall be considered as elected.

ARTICLE 11.—If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.

ARTICLE 12.—If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the Assembly and three by the Council, may be formed, at any time, at the request of either the Assembly or the Council, for the purpose of choosing one name for each seat still vacant, to submit to the Assembly and the Council for their respective acceptance.

If the Conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Articles 4 and 5.

If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been appointed shall, within a period to be fixed by the Council, proceed to fill the vacant seats by selection from amongst those candidates who have obtained votes either in the Assembly or in the Council.

In the event of an equality of votes amongst the judges the eldest judge shall have a casting vote.

ARTICLE 13.—The members of the Court shall be elected for nine years.

They may be re-elected.

They shall continue to discharge their duties until their places

have been filled. Though replaced, they shall finish any cases which they may have begun.

ARTICLE 14.—Vacancies which may occur shall be filled by the same method as that laid down for the first election. A member of the Court elected to replace a member whose period of appointment had not expired will hold the appointment for the remainder of his predecessor's term.

ARTICLE 15.—Deputy-judges shall be called upon to sit in the order laid down in a list.

This list shall be prepared by the Court and shall have regard firstly to priority of election and secondly to age.

ARTICLE 16.—The ordinary members of the Court may not exercise any political or administrative function. This provision does not apply to the deputy-judges except when performing their duties on the Court.

Any doubt on this point is settled by the decision of the Court.

ARTICLE 17.—No member of the Court can act as agent, counsel or advocate in any case of an international nature. This provision only applies to the deputy-judges as regards cases in which they are called upon to excercise their functions on the Court.

No member may participate in the decision of any case in which he has previously taken an active part, as agent counsel, or advocate for one of the contesting parties, or as a member of a national or international Court, or of a Commission of enquiry, or in any other capacity.

Any doubt on this point is settled by the decision of the Court.

ARTICLE 18.—A member of the Court cannot be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfil the required conditions.

Formal notification thereof shall be made to the Secretary-General of the League of Nations, by the Registrar.

This notification makes the place vacant.

ARTICLE 19.—The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

ARTICLE 20.—Every member of the Court shall, before taking up his duties, make a solemn declaration in open Court that he will exercise his powers impartially and conscientiously.

ARTICLE 21.—The Court shall elect its President and Vice-President for three years; they may be re-elected.

It shall appoint its Registrar.

The duties of Registrar of the Court shall not be deemed incompatible with those of Secretary-General of the permanent Court of Arbitration.

ARTICLE 22.—The seat of the Court shall be established at The Hague.

The President and Registrar shall reside at the seat of the Court.

ARTICLE 23.—A session of the Court shall be held every year.

Unless otherwise provided by rules of Court, this session shall begin on June 15, and shall continue for so long as may be deemed necessary to finish the cases on the list.

The President may summon an extraordinary session of the Court whenever necessary.

ARTICLE 24.—If, for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he shall so inform the President.

If the President considers that for some special reason one of the members of the Court should not sit on a particular case, he shall give him notice accordingly.

If in any such case the member of the Court and the President disagree, the matter shall be settled by the decision of the Court.

ARTICLE 25.—The full Court shall sit except when it is expressly provided otherwise.

If eleven judges cannot be present, the number shall be made up by calling on deputy-judges to sit.

If, however, eleven judges are not available, a quorum of nine judges shall suffice to constitute the Court.

ARTICLE 26.—Labour cases, particularly cases referred to in Part XIII (Labour) of the Treaty of Versailles and the corresponding portions of the other Treaties of Peace, shall be

heard and determined by the Court under the following conditions:

The Court will appoint every three years a special chamber of five judges, selected so far as possible with due regard to the provisions of Article 9. In addition, two judges shall be selected for the purpose of replacing a judge who finds it impossible to sit. If the parties so demand, cases will be heard and determined by this chamber. In the absence of any such demand, the Court will sit with the number of judges provided for in Article 25. On all occasions the judges will be assisted by four technical assessors sitting with them, but without the right to vote, and chosen with a view to ensuring a just representation of the competing interests.

If there is a national of one only of the parties sitting as a judge in the chamber referred to in the preceding paragraph, the President will invite one of the other judges to retire in favour of a judge chosen by the other party in accordance with Article 31.

The technical assessors shall be chosen for each particular case in accordance with rules of procedure under Article 30 from a list of "Assessors for Labour cases" composed of two persons nominated by each member of the League of Nations and an equivalent number nominated by the Governing Body of the Labour Office. The Governing Body will nominate, as to one half, representatives of the workers, and as to one half, representatives of employers from the list referred to in Article 412 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace.

In Labour cases the International Labour office shall be at liberty to furnish the Court with all relevant information, and for this purpose the Director of that office shall receive copies of all the written proceedings.

ARTICLE 27.—Cases relating to transit and communications, particularly cases referred to in Part XII (Ports, Waterways and Railways) of the Treaty of Versailles and the corresponding portions of the other Treaties of Peace shall be heard and determined by the Court under the following conditions:

The Court will appoint every three years a special chamber of five judges, selected so far as possible with due regard to the

provisions of Article 9. In addition, two judges shall be selected for the purpose of replacing a judge who finds it impossible to sit. If the parties so demand, cases will be heard and determined by this chamber. In the absence of any such demand, the Court will sit with the number of judges provided for in Article 25. When desired by the parties or decided by the Court, the judges will be assisted by four technical assessors sitting with them, but without the right to vote.

If there is a national of one only of the parties sitting as a judge in the chamber referred to in the preceding paragraph, the President will invite one of the other judges to retire in favour of a judge chosen by the other party in accordance with Article 31

The technical assessors shall be chosen for each particular case in accordance with rules of procedure under Article 30 from a list of " Assessors for Transit and Communications cases " composed of two persons nominated by each member of the League of Nations.

ARTICLE 28.—The special chambers provided for in Articles 26 and 27 may, with the consent of the parties to the dispute, sit elsewhere than at The Hague.

ARTICLE 29.—With a view to the speedy despatch of business, the Court shall form annually a chamber composed of three judges who, at the request of the contesting parties, may hear and determine cases by summary procedure.

ARTICLE 30.—The Court shall frame rules for regulating its procedure. In particular, it shall lay down rules for summary procedure.

ARTICLE 31.—Judges of the nationality of each contesting party shall retain their right to sit in the case before the Court.

If the Court includes upon the Bench a judge of the nationality of one of the parties only, the other party may select from among the deputy-judges a judge of its nationality, if there be one. If there should not be one, the party may choose a judge, preferably from among those persons who have been nominated as candidates as provided in Articles 4 and 5.

If the Court includes upon the Bench no judge of the nation-

ality of the contesting parties, each of these may proceed to select or choose a judge as provided in the preceding paragraph.

Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point is settled by the decision of the Court.

Judges selected or chosen as laid down in paragraphs 2 and 3 of this Article shall fulfil the conditions required by Articles 2, 16, 17, 20, 24 of this Statute. They shall take part in the decision on an equal footing with their colleagues.

ARTICLE 32.—The judges shall receive an annual indemnity to be determined by the Assembly of the League of Nations upon the proposal of the Council. This indemnity must not be decreased during the period of a judge's appointment.

The President shall receive a special grant for his period of office, to be fixed in the same way.

The Vice-President, judges and deputy-judges shall receive a grant for the actual performance of their duties, to be fixed in the same way.

Travelling expenses incurred in the performance of their duties shall be refunded to judges and deputy-judges who do not reside at the seat of the Court.

Grants due to judges selected or chosen as provided in Article 31 shall be determined in the same way.

The salary of the Registrar shall be decided by the Council upon the proposal of the Court.

The Assembly of the League of Nations shall lay down, on the proposal of the Council, a special regulation fixing the conditions under which retiring pensions may be given to the personnel of the Court.

ARTICLE 33.—The expenses of the Court shall be borne by the League of Nations, in such a manner as shall be decided by the Assembly upon the proposal of the Council.

CHAPTER II

Competence of the Court

ARTICLE 34.—Only states or members of the League of Nations can be parties in cases before the Court.

ARTICLE 35.—The Court shall be open to the members of the League and also to states mentioned in the Annex to the Covenant.

The conditions under which the Court shall be open to other states shall, subject to the special provisions contained in treaties in force, be laid down by the Council, but in no case shall such provisions place the parties in a position of inequality before the Court.

When a state which is not a member of the League of Nations is a party to a dispute, the Court will fix the amount which that party is to contribute towards the expenses of the Court.

ARTICLE 36.—The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in Treaties and Conventions in force.

The members of the League of Nations and the states mentioned in the Annex to the Covenant may, either when signing or ratifying the protocol to which the present Statute is adjoined, or at a later moment, declare that they recognise as compulsory, *ipso facto* and without special agreement, in relation to any other member or state accepting the same obligation, the jurisdiction of the Court in all or any of the classes of legal disputes concerning:

(*a*) The interpretation of a Treaty.
(*b*) Any question of International Law.
(*c*) The existence of any fact which, if established, would constitute a breach of an international obligation.
(*d*) The nature or extent of the reparation to be made for the breach of an international obligation.

The declaration referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain members or states, or for a certain time.

In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

ARTICLE 37.—When a treaty or convention in force provides for the reference of a matter to a tribunal to be instituted by the League of Nations, the Court will be such tribunal.

ARTICLE 38.—The Court shall apply:

1. International conventions, whether general or particular, establishing rules expressly recognised by the contesting states;

2. International custom, as evidence of a general practice accepted as law;

3. The general principles of law recognised by civilised nations;

4. Subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

This provision shall not prejudice the power of the Court to decide a case *ex æquo et bono*, if the parties agree thereto.

CHAPTER III

Procedure

ARTICLE 39.—The official languages of the Court shall be French and English. If the parties agree that the case shall be conducted in French, the judgment will be delivered in French. If the parties agree that the case shall be conducted in English, the judgment will be delivered in English.

In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Court will be given in French and English. In this case the Court will at the same time determine which of the two texts shall be considered as authoritative.

The Court may, at the request of the parties, authorise a language other than French or English to be used.

ARTICLE 40.—Cases are brought before the Court, as the case may be, either by the notification of the special agreement, or by a written application addressed to the Registrar. In either case the subject of the dispute and the contesting parties must be indicated.

The Registrar shall forthwith communicate the application to all concerned.

He shall also notify the members of the League of Nations through the Secretary-General.

ARTICLE 41.—The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to reserve the respective rights of either party.

Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and the Council.

ARTICLE 42.—The parties shall be represented by Agents.

They may have the assistance of Counsel or Advocates before the Court.

ARTICLE 43.—The procedure shall consist of two parts: written and oral.

The written proceedings shall consist of the communication to the judges and to the parties of cases, counter-cases and, if necessary, replies; also all papers and documents in support.

These communications shall be made through the Registrar, in the order and within the time fixed by the Court.

A certified copy of every document produced by one party shall be communicated to the other party.

The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel and advocates.

ARTICLE 44.—For the service of all notices upon persons other than the agents, counsel and advocates, the Court shall apply direct to the Government of the state upon whose territory the notice has to be served.

The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

ARTICLE 45.—The hearing shall be under the control of the President or, in his absence, of the Vice-President; if both are absent, the senior judge shall preside.

ARTICLE 46.—The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted.

ARTICLE 47.—Minutes shall be made at each hearing, and signed by the Registrar and the President.

These minutes shall be the only authentic record.

ARTICLE 48.—The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

ARTICLE 49.—The Court may, even before the hearing begins, call upon the agents to produce any document, or to supply any explanations. Formal note shall be taken of any refusal.

ARTICLE 50.—The Court may, at any time, entrust any individual, body, bureau, commission or other organisation that it may select, with the task of carrying out an enquiry or giving an expert opinion.

ARTICLE 51.—During the hearing any relevant questions are to be put to the witnesses and experts under the conditions laid down by the Court in the rules of procedure referred to in Article 30.

ARTICLE 52.—After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents.

ARTICLE 53.—Whenever one of the parties shall not appear before the Court, or shall fail to defend his case, the other party may call upon the Court to decide in favour of his claim.

The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance with Articles 36 and 37, but also that the claim is well founded in fact and law.

ARTICLE 54.—When, subject to the control of the Court, the agents, advocates and counsel have completed their presentation of the case, the President shall declare the hearing closed.

The Court shall withdraw to consider the judgment.

The deliberations of the Court shall take place in private and remain secret.

ARTICLE 55.—All questions shall be decided by a majority of the judges present at the hearing.

In the event of an equality of votes, the President or his deputy shall have a casting vote.

ARTICLE 56.—The judgment shall state the reasons on which it is based.

It shall contain the names of the judges who have taken part in the decision.

ARTICLE 57.—If the judgment does not represent in whole or in part the unanimous opinion of the judges, dissenting judges are entitled to deliver a separate opinion.

ARTICLE 58.—The judgment shall be signed by the President and by the Registrar. It shall be read in open Court, due notice having been given to the agents.

ARTICLE 59.—The decision of the Court has no binding force except between the parties and in respect of that particular case.

ARTICLE 60.—The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

ARTICLE 61.—An application for revision of a judgment can be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.

The proceedings for revision will be opened by a judgment of the Court expressly recording the existence of the new fact, recognising that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

The application for revision must be made at latest within six months of the discovery of the new fact.

No application for revision may be made after the lapse of ten years from the date of the sentence.

ARTICLE 62.—Should a state consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene as a third party.

It will be for the Court to decide upon this request.

ARTICLE 63.—Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar shall notify all such states forthwith.

Every state so notified has the right to intervene in the proceedings : but if it uses this right, the construction given by the judgment will be equally binding upon it.

ARTICLE 64. —Unless otherwise decided by the Court, each party shall bear its own costs.

OPTIONAL CLAUSE

The undersigned, being duly authorised thereto, further declare, on behalf of their Government, that, from this date, they accept as compulsory *ipso facto* and without special Convention, the jurisdiction of the Court in conformity with article 36, paragraph 2, of the Statute of the Court, under the following conditions :

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B. FERNANDEZ Y MEDINA.

Pour copie certifiée conforme.
ERIC DRUMMOND,
Secrétaire Général.

Decembre 16, 1920.

APPENDIX III

A NOTE ON THE NEW ALBANIAN FRONTIERS

APPENDIX III

A Note on the New Albanian Frontiers

THE idea governing the decision on the Albanian frontiers by the Ambassador's Council was that the frontiers of 1913 should be accepted in principle, but that certain modifications in detail should be made. It does not seem to be quite correct to say, as Mr. Fisher did to the Council in November, that the key positions have been given to the Serbs. It would be more correct to say that natural barriers have been, wherever possible, erected between Serbs and Albanians, which made it difficult for either to fight the other.

The frontiers of 1913 were weak at four points;[1] (*a*) Kastrati area; (*b*) Prisrend area; (*c*) Dibra area; (*d*) Lim area. In the Kastrati area the Albanians crossed the frontier of 1913 in July, 1920, and got within a few miles of Podgorica, the largest town of Montenegro, which the American Red Cross were told by the Serbs to evacuate. In 1913 the city of Dibra was attained by the Albanians, who also crossed the Serb frontier to the south. In 1920 Dibra and Prisrend were both attacked by the Albanians. It is therefore idle to pretend that the Albanians are not sometimes the aggressors. The fact is that, like the tribes on the north-west frontier of India, they sometimes have to live by raids because their crops fail or their neighbours steal. Also—and the fact is important—the Tirana Government has never exercised any great authority among the more northerly tribes, and has neither representatives nor troops among several of them. This fact does not justify the Serbs in reprisals, but it does justify them in demanding a better frontier.

[1] This was probably due to a deliberately Machiavellian policy on the part of Austria-Hungary, which wished to embroil Albanians with Serbs and succeeded admirably in the attempt.

(*a*) THE KASTRATI AREA

The path by which the Albanians attacked in 1920 wound just north of the lake. By giving the Serbs the height of Veleč̌iku north of this, they are enabled to prevent any advance along this path. They are not, however, enabled to take the offensive against Scutari, because a few miles within the Albanian frontier is an enormously deep canyon across which advance is practically impossible.

(*b*) THE PRISREND AREA

The large town of Prisrend is dangerously exposed, as an open valley runs into it from the south, and the Albanian frontier of 1913 includes dominating heights to the west The Albanian boundary is now to be pushed some kilometres back to enable the new frontier to run along the top of the heights, thereby making fortification of them impossible for either party, and dividing the valley between Albanians and Serbs.

(*c*) DIBRA AREA

The insane decision of 1913 by which part of this road was given to Albania and part to Serbia is corrected by giving the whole road between the two Serb towns of Soruga and Dibra to Serbia. The Serb line is extended to the natural heights west of the road.

(*d*) LIM AREA

The small Serb town of Lim is ceded to Albania to give her full possession of the road to El Bassan.

(*a*) and (*b*) involve the substitution of natural barriers for unnatural ones in order to protect the cities of Podgorica and Prisrend. They confer no offensive advantage on the Serbs, nor do they enable them to menace any Albanian city.

(*c*) and (*d*) are necessary economic adjustments. The frontiers of 1913 were criticised on the ground that tribal boundaries, which were known by the natives, were not usually chosen. In (*b*) it is provided that the boundary shall follow the western limit of the Gora tribe. It stands to reason that the restoration of systems of communication as in (*c*) and (*d*) give more natural frontiers than those which preceded them. In addition, in the

Kastrati area a right of through communication from the northern part of Albania is given to Albanians.

One last observation may be made. It was frequently contended that the proper course to pursue was to rearrange the frontiers of 1913 on a natural basis of compensation. This was impossible, because, according to the legal position, approved by the League Secretariat, Serbia was entitled legally to her frontiers of 1913, whereas Albania was not. Hence Serbia had only to refuse to discuss the question for all discussion to end. When her legal position was so strong Albania could not reasonably hope for a mutual compensation, though she has obtained Lim. On the whole, therefore, it may be said that the new Albanian frontiers are an improvement on the old, because they conform more to natural features, they take into account an important tribal boundary, and they restore freedom of communication to both parties. In any case they cannot be worse than the frontiers of 1913, for there can be no worse frontiers. The population of the areas transferred has changed very much in recent years, the actual population transferred is not numerous, and the areas ceded are mountainous and barren.

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